



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761115493330>

CAI (5)
FN 55
-81R57B



TARIFF ITEMS COVERING GOODS MADE/NOT MADE IN CANADA PHASE II



REFERENCE
157

A REPORT BY
THE TARIFF BOARD

REFERENCE NO. 157

A REPORT OF AN INQUIRY

by the

TARIFF BOARD

respecting

TARIFF ITEMS COVERING GOODS

MADE/NOT MADE IN CANADA

PHASE II

This report, made pursuant to a reference by the Minister of Finance and signed by the Board on December 20, 1984 is presented for tabling in Parliament under the provisions of section 6 of the Tariff Board Act.

© Minister of Supply and Services Canada 1985

Available in Canada through

Authorized Bookstore Agents
and other bookstores

or by mail from

Canadian Government Publishing Centre
Supply and Services Canada
Ottawa, Canada K1A 0S9

Catalogue No. FT 4-157/2-1-1985E
ISBN 0-660-11806-8

Canada: \$36.30
Other Countries: \$43.55

Price subject to change without notice

THE TARIFF BOARD

CHAIRMAN

John A. MacDonald

FIRST VICE-CHAIRMAN

Jean P. Bertrand

SECOND VICE-CHAIRMAN

G.J. Gorman, Q.C.

MEMBERS

A.C. Kilbank

K.C. Martin

R.K. Matthie

C.N. Beauchamp

PANEL FOR THIS INQUIRY

John A. MacDonald

G. Deachman*

Jean P. Bertrand

A.C. Kilbank

K.C. Martin

R.K. Matthie

CHAIRMAN, WORKING GROUP FOR THIS INQUIRY

K.C. Martin

EXECUTIVE DIRECTOR, REFERENCE OPERATIONS

W.L. Posthumus

ECONOMISTS

Dr. P.J. Bowden

H.D. McCree

J.W. Millman

A.Y. Renaud

Ottawa

K1A 0G7

***Mr. G. Deachman, former First Vice-Chairman, retired March 15, 1983.**

TABLE OF CONTENTS

	<u>Page</u>
CHAPTER 1. INTRODUCTION	
Terms of Reference	1
Scope of Inquiry	3
Method of Inquiry	4
Public Hearing Process	6
CHAPTER 2. CONCEPTUAL, ANALYTICAL AND ADMINISTRATIVE FRAMEWORK	
Made/Not Made Tariff Arrangement	8
Historical Perspective	8
Definitional and Administrative Considerations	13
Treatment of Parts	17
Other Tariff Arrangements	19
Eo Nomine Approach	19
The "Availability Formula"	22
Considerations of "Continuing Relevance"	25
Duty Considerations	29
CHAPTER 3. REVIEW OF INDIVIDUAL TARIFF ITEMS: INTRODUCTION	42
CHAPTER 4. TEXTILE PRODUCTS AND CHEMICALS	
Introduction	45
Tariff Item 53415-1	46
Tariff Item 56255-1	48
Tariff Item 56705-1	50
Tariff Item 56710-1	52
Tariff Item 56930-1	53
Tariff Item 56935-1	54
Tariff Item 21950-1	55
Tariff Item 85800-1	59
Tariff Item 86400-1	61
Tariff Item 92944-2	67
Tariff Items 93819-14 and 86000-1	69
CHAPTER 5. ELECTRICAL GOODS, METAL GOODS AND MISCELLANEOUS GOODS II	
Introduction	81
Tariff Item 30620-1	82
Tariff Item 31500-1 Ex.	84
Tariff Items 32645-1 and 32669-1	85
Tariff Item 35235-1	95
Tariff Item 39225-1	96
Tariff Item 40700-1	97
Tariff Item 42726-1	100

TABLE OF CONTENTS (CONT.)

	<u>Page</u>
Tariff Items 44205-1 and 97056-1	115
Tariff Item 44305-1	136
Tariff Item 44569-1	137
Tariff Item 44643-1	138
Tariff Item 46400-1	140
Tariff Item 47605-1 Ex.	141
Tariff Item 47615-1	143
Tariff Item 68200-1 Ex.	147
 CHAPTER 6. MACHINERY, MATERIALS, PARTS AND EQUIPMENT USED IN THE CONSTRUCTION OR EQUIPMENT OF AIRCRAFT AND SHIPS	
Introduction	150
Tariff Item 44022-1	151
Tariff Item 44059-1	163
Tariff Item 97053-1	172
Tariff Item 97071-1	177
 CHAPTER 7. MACHINERY, EQUIPMENT, PARTS AND ACCESSORIES USED IN THE MANUFACTURE OF MOTOR VEHICLES	
Introduction	181
Tariff Item 41106-1	195
Tariff Items 43806-1 and 43807-1	201
Tariff Items 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 and 43816-1	215
Tariff Items 43819-1, 43820-1 and 43821-1	232
Tariff Items 43824-1, 43825-1 and 43826-1	244
Tariff Item 43861-1	250
Tariff Item 43877-1	252
Tariff Item 44560-1	268
Tariff Item 97052-1	270
 CHAPTER 8. SUMMARY OF RECOMMENDATIONS	278
 APPENDIX I. TARIFF ITEMS REFERRED TO THE BOARD FOR STUDY	305
 APPENDIX II. RELATED TARIFF ITEMS: NOMENCLATURE AND RATES OF DUTY	306
 APPENDIX III. VALUE OF IMPORTS UNDER SPECIFICALLY REFERRED AND RELATED TARIFF ITEMS	345
 APPENDIX IV. DOMESTIC PRODUCERS OF GOODS NOT PREVIOUSLY IDENTIFIED AS "MADE IN CANADA"	350

TABLE OF CONTENTS (CONCL.)

	<u>Page</u>
APPENDIX V. PARTIES MAKING SUBMISSIONS TO THE BOARD	359
LIST OF TABLES	
Table 1. Referred Tariff Items: Analytical Framework	33
Table 2. Disposition of Existing Tariff Items	279
Table 3. Recommended Tariff Items Related to Existing Tariff Items	282

CHAPTER 1. INTRODUCTION

Terms of Reference

This volume contains the second part of a report by the Tariff Board under Reference No. 157 on the subject of tariff items converging goods made/not made in Canada. The terms of reference for this study are set out in a letter, dated August 20, 1979, from the Minister of Finance to the Chairman of the Tariff Board. The Minister's letter is worded as follows:

Dear Miss McDougall:

I am writing to direct the Tariff Board to make a study and report under Section 4(2) of the Tariff Board Act on those items in the Customs Tariff listed in Annexes I and II to this letter⁽¹⁾ under which the tariff classification of a product depends on whether or not the product is made in Canada. The scope of the Board's review should encompass not only the tariff and drawback items containing "made in Canada" or "not made in Canada" clauses but also any other tariff items which the Board considers relevant to its inquiry.

I have concluded that there is a need to review the continuing relevance of the "made/not made" items in the Customs Tariff in the light of the changes in tariff protection which have resulted from successive trade negotiations including the recent "Tokyo Round" of multilateral trade negotiations. Also, representations have been received from time to time regarding these items from Canadian users and producers as well as from foreign governments. Some argue that they are a cause of uncertainty for importers and foreign exporters as to the tariff treatment they can expect to receive when goods are imported into Canada since the "made in Canada" status of a product may change over time resulting in a change in the rate of duty applicable to that product. Others, while they may have concerns as to the manner in which the system operates, claim that the "made/not made" items provide a flexible system which sustains or encourages manufacturing in Canada while at the same time providing appropriate tariff relief for important Canadian industrial users who must compete in the world economy.

(1) See Appendix I, infra, p. 305.

In view of the foregoing, I am asking the Board to consider, on an item-by-item basis, what alternative tariff arrangements might be introduced and the extent to which this should be done by establishing new tariff items setting forth specific product descriptions. For products where the Board does not consider such items feasible, it should make alternative proposals. It is the intention of the Government, however, to limit, to the extent possible, the use of the "made/not made" terminology in developing new tariff designations. Moreover, it is the Government's view that the "availability" concept, as currently employed in tariff items 42700-1, 42701-1 and 41100-1⁽¹⁾ should be used only in specialized circumstances. I would, however, not preclude the Board from recommending use of "availability" criteria or the maintenance of "made/not made" distinctions for certain items if it feels this is necessary or advisable.

For tariff items covered by this reference that are "bound" in Schedule V of the GATT,⁽²⁾ I would ask the Board to take into account the way the items have been administered and to use as a tariff level reference point the final concession rates agreed to in the Multilateral Trade Negotiations. To the extent possible, the Board should not make recommendations with respect to these items which, if implemented, would result in an overall increase in the levels of protection provided for in the new GATT Schedule for the relevant product categories.

I therefore request the Board to prepare a revised schedule of tariff items with recommendations as to appropriate tariff descriptions and rates of duty. For items contained in Annex I, the Board should report in sufficient time, and in any event by January 1, 1983 at the latest, to permit the Government to take a decision on its recommendations not later than January 1, 1984. For the items in Annex II, I would appreciate receiving the report of the Board as shortly thereafter as possible and in any event, no later than January 1, 1985.

Yours sincerely,

John C. Crosbie.

(1) For the nomenclature of these items, see Appendix II, infra, pp. 306-44.

(2) See Department of Finance, Canada, Tariff Concessions agreed by Canada in the Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade (June 1979).

Scope of Inquiry⁽¹⁾

In all, 112 tariff items (including parts of ten items) have been referred to the Board for study under this reference. These items, which encompass a very broad range of goods, have been divided by the Minister into two distinct schedules, with different reporting dates - i.e. January 1, 1983 and January 1, 1985.

In order to facilitate the preparation of background material and the scheduling of public hearings, the Board decided at an early stage to review the tariff provisions falling under the inquiry on a group basis. Accordingly, seven broad groupings of tariff items were identified in relation to each of the two phases of the reference, the groupings reflecting, in a general kind of way, the end uses and/or physical characteristics of the goods in question. As part of this grouping process, eleven of the tariff items listed in Annex II to the Minister's letter were transferred by the Board for study and reporting purposes to Phase I of the inquiry. Thus, Phase II encompasses 52 of the items referred to the Board, rather than the 63 items originally listed in Annex II.

In addition to the aforementioned tariff items, there are very many others which fall within the area of reference. Of the 112 referred items encompassed by both phases of the inquiry, 24 (of which 22 were reviewed in Phase I) comprise "made/not made" pairings, while 88 are "not made" items with no specific "made" counterparts. Although, in the case of these unpaired provisions, the tariff classifications applicable to the counterpart "made" goods have not been referred directly to the Board, they clearly fall within the ambit of study, since their coverage would be affected by any change in the status of goods entering under the corresponding "not made" provisions or by the deletion of such provisions from the Customs Tariff. Again, 99 of the items referred to the Board (including 48 in Phase II of the inquiry) have

(1) Except for some necessary changes in emphasis, the following discussion replicates sections of the Board's report on Phase I of the inquiry contained in Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Phase I (1982), pp. 3-6, 9-33.

specific end-use and/or end-user connotations. Since, for the most part, these provisions originated as offshoots of tariff items having unrestricted or non-specific industrial utilization requirements,⁽¹⁾ any tariff recommendations which aimed to effect a broadening or narrowing of the range of goods admissible on the basis of end-use and/or end-user qualifications would need to be formulated in the context of these wider family relationships.

Method of Inquiry

The Minister has asked the Board to investigate the possibilities of replacing the "made/not made" tariff provisions by some other form, or forms, of tariff treatment. Where simple elimination of these provisions does not appear to provide the desired answer, it is quite evident from the Minister's letter that the first and principal solution must be sought in the development of specific product (eo nomine) descriptions. Such descriptions, it is implied, are preferable to the existing "class or kind" provisions - or to the use of "availability" criteria - on account of the reduced opportunities for the exercise of administrative discretion and the greater element of certainty thereby afforded to exporters and importers with respect to duty payable.

In light of the terms of reference supplied by the Minister, lack of feasibility would seem to be the main - if not the only acceptable - reason for rejecting an eo nomine approach to the problem in hand. Clearly, tariff classifications based upon specific commodity descriptions are most easily developed when the goods to be encompassed are few, simple, and broadly homogeneous in function and physical characteristics. However, many of the tariff provisions included in this reference, with the prime exception of those pertaining to motor vehicle parts and accessories, contain descriptions of goods in general terms which comprehend a wide and highly diversified range of products, some of which are produced in Canada and some of which are not.

(1) The tariff histories of the referred items reviewed in Phase II of the inquiry are set out in Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Background Nos. 8 to 11 (1981-83).

To carry out its mandate, the Board has sought to establish lists of relevant classes of goods covered by the referred items, together with some indication of their made-in-Canada status. At first, the Board had hoped to be in a position to compile lists based on the published and unpublished rulings, relating to the referred items, issued by Revenue Canada, Customs and Excise. However, preliminary inquiries revealed that the compilation of product information based upon such rulings would be an arduous and time-consuming task, while the degree of commodity detail recorded in the official documentation appeared generally too broad for the purpose at hand. Similar considerations precluded a detailed study of import documents. Both these approaches were, therefore, set aside with the reservation that either or both could be used at a later date, on a limited scale, if they should prove necessary.

The most easily available, readily accessible, source of information was found to be Statistics Canada import data cross-classified by tariff item and 7-digit commodity class. For each referred tariff item, a list was obtained showing all the 7-digit classes said to cover any of the imports under the item. With the assistance and advice of officials of Revenue Canada, cases of obvious misclassification were removed, leaving listed only those classes relevant to the item as a whole. For each item, the list of classes was then again reviewed to eliminate those classes which applied only to goods whose tariff classification did not depend on their made-in-Canada status. In many, but not all, items, parts are classified according to the status of the finished products and not in relation to their own status - i.e. a "made" part of a "not made" product may enter under a "not made" item. Where, however, the classification of parts depends directly on their own "made" or "not made" status, the relevant classes were retained. Certain relevant classes were eliminated where the value of imports was very small but, on the other hand, obviously relevant classes were added even if no imports were recorded either in the base year (1978) or in adjoining years, to which reference was also made. Certain broad n.e.s. ("not elsewhere specified") classes, in relation to which further detailed product specification would present considerable difficulties, were also eliminated.

The revised lists of commodity classes and - primarily in the case of motor vehicle parts and accessories - some specific listings of goods were then submitted to officials of the Department of Industry, Trade and Commerce for their review and advice respecting which classes are "made" or "not made" in Canada, and, where relevant, for the breakdown of classes between "made" and "not made" goods. In this regard, the Board also sought the assistance of representatives of manufacturers, purchasers and users of the relevant types of goods. The Board hereby gratefully acknowledges the assistance received from officials of the aforementioned government departments and members of the business community in carrying out this very necessary, but somewhat tedious, aspect of the study.

Based on these inquiries and consultations, the Board prepared provisional listings of "made", "not made" and "uncertain" classes of goods for distribution to interested parties, together with other relevant background information and statistics.⁽¹⁾ Representations or observations were invited regarding the accuracy and completeness of these listings, and parties were asked to make known their views regarding possible alternative tariff arrangements.

In order to provide some guidance in this latter connection, a general discussion paper on the issues⁽²⁾ was circulated by the Board prior to the first public airing of the reference, while, as the inquiry proceeded, the Board's staff developed and circulated draft papers setting out the various tariff options in relation to each of the referred items under review at the individual group hearings.

Public Hearing Process

Following the compilation and distribution of pertinent background material, the seven groupings of tariff items falling into Phase II of the reference were reviewed at a series of public hearings held between March 8,

(1) Ibid.

(2) Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Discussion Paper No. 1. Issues and Approach (November, 1979).

1982 and April 26, 1983. These hearings, which were well publicized in The Tariff Board Register, as well as in the Canada Gazette, attracted a total of 108 briefs (excluding supplementary statements) from 98 individual companies, industry groups, and trade associations.⁽¹⁾ Of these interested parties, 47 made submissions comprehending more than one tariff item or combination of tariff items.

Subsequent to the final group hearing in relation to Phase II of the inquiry, following what has now become customary practice in connection with Board reference investigations, an appreciation of the evidence was undertaken by the Board's staff. The products of this exercise were made available to interested parties in a series of staff appraisals which, in addition to ranging over material published in earlier background and discussion papers, also incorporated the results of an analysis of more recent import data and provided a summary review of all pertinent representations made to the Board; possible tariff solutions were set out with respect to each individual tariff item or combination of tariff items under consideration.

Public hearings for the purpose of receiving and reviewing observations pertaining to the subject matter of these staff appraisals were held in Ottawa on November 1, 1983 and January 10, 1984. In this connection, supplementary submissions were received from 27 of the parties previously submitting briefs, while an additional 17 briefs were received from companies or associations not previously participating in the inquiry with respect to the particular tariff items under review. The report which follows takes cognizance of all these representations, as well as the results of further investigations by the Board's staff, where these have been deemed necessary.

(1) See Appendix V, infra, pp. 359-65 for a listing of parties making submissions to the Board.

CHAPTER 2. CONCEPTUAL, ANALYTICAL AND ADMINISTRATIVE FRAMEWORK

Made/Not Made Tariff Arrangement

Historical Perspective

The formulation of tariff provisions under which the dutiable status of commodities depends upon whether or not like goods are made in Canada has long been a feature of the Canadian Customs Tariff, although, before 1930, the device was used to a very limited degree. In 1880 only three tariff items incorporated such provisions,⁽¹⁾ and in 1897 only eight. The Customs Tariff of 1907 contained 14 made-in-Canada items (including one permitting drawback of duty on "not made" galvanized wire netting when used in traps for the fisheries),⁽²⁾ while the tariff schedules for 1928 listed 25 such items.

One of the earliest tariff items to apply a made-in-Canada criterion differentiated against "lustre wools and other like combing wools such as are grown in Canada", imposing a duty of 3 cents per pound thereon⁽³⁾. However, prior to the 1960's, virtually all other pertinent provisions provided otherwise dutiable goods with duty-free entry, or access at preferential rates, when the goods were "of a class or kind not made in Canada". In many instances such preferential tariff treatment was linked to importation by certain specified end users and/or for certain specified end uses. Hence, with respect to goods falling under such end-use provisions, preferential tariff treatment was accorded on a restricted basis without apparent prejudice to Canadian producers.

Several of the earliest of these provisions had a cultural or social bias, the favoured users being institutions or societies concerned with education, scientific learning or health care. Thus, the 1880 Customs Tariff provided, under authority of an Order in Council, for the duty-free entry of bent

(1) These items related respectively to: machinery for worsted or cotton mills; bent glass for the manufacture of show cases; and combing wools.

(2) Tariff item 1020.

(3) Numbered as tariff item 390 in 1897 and as item 555 in 1907.

glass, such as was "not made in Canada", for the manufacture of show cases;⁽¹⁾ while the 1897 Customs Tariff made provision (under tariff items 462, 463 and 467 respectively) for the duty-free admission of:

- (i) philosophical instruments and apparatus - that is to say, such as are not manufactured in Canada, when imported for use in universities, colleges, schools, scientific societies, and public hospitals;
- (ii) skins of birds, and skins of animals not natives of Canada, for taxidermic purposes, not further manufactured than prepared for preservation;
- (iii) books, not printed or reprinted in Canada, which are included and used as text books in the curriculum of any university, incorporated college or normal school in Canada.

Privileged tariff treatment of the goods encompassed by the above provisions has continued to the present time and, indeed, in the case of textbooks and certain of the "philosophical instruments", has been extended by deletion of the "not made in Canada" criterion.⁽²⁾

Other "not made" goods favoured with duty-free entry under late-nineteenth-century provisions, comprised a somewhat odd assortment of metal products, including: iron, steel or brass manufactures imported for use in the construction or equipment of ships or vessels (presently provided for under referred tariff item 44022-1); primers for shot shells; copper rollers for use in calico printing; and rolled iron tubes, lacquered or brass covered, for use in the manufacture of bedsteads.⁽³⁾

In the drastically restructured Customs Tariff of 1907 (dating from November 30, 1906), approximately half of the 13 "not made in Canada" provisions were directed, in whole or in part, at machinery, with well drilling, mining and metallurgical operations featured among the privileged end

(1) See Customs Tariff, 1880, p. 27.

(2) See tariff items 69605-1, 69900-1 and 17305-1. The goods falling under item 69605-1 (and its companion item 69610-1) were reviewed in Tariff Board, Reference No. 134. Equipment for Hospitals and Other Institutions (1968) and Reference No. 155. Exemption from Duties for Certain Institutions and Goods (1978).

(3) Classified in the Customs Tariff for 1897 under tariff items 542, 535, 577 and 617 respectively.

uses.⁽¹⁾ Textile machinery, partially exempted from duty for a limited period prior to October, 1880, was now brought more generally and permanently within the ambit of present concern,⁽²⁾ while provision was also made⁽³⁾ for the duty-free entry of certain newspaper printing presses "of a class or kind not made in Canada" and for the like admission of "all tools and machinery not manufactured in Canada up to the required standard, necessary ... for the manufacture of rifles for the Government of Canada". Among other "not made" provisions introduced at this time was the predecessor of item 28105-1, pertaining to firebrick - in respect of which the Board submitted an interim report to the Minister⁽⁴⁾ - and a provision encompassing seamless cotton or linen duck for the manufacture of hose pipe.⁽⁵⁾

No further changes of substance were made until 1924-30, when a number of new made-in-Canada items, directed especially at the mining and metallurgical sectors, were introduced. Other goods and sectors to be accorded preferential tariff treatment during this period by virtue of the application of a "not made in Canada" criterion included, by way of illustration, the following: items of equipment for use in the manufacture of motor vehicles; ozone generators or airifiers "for use in ventilating garages or automotive workshops"; internal combustion traction engines for farm use; various iron or steel shapes, sections and semi-finished products; machinery for use in the manufacture of nets for the fisheries, and needles for the repair of fish nets; machinery for use in the tanning or embossing of leather; machinery for the manufacture of metal keys for opening cans of food products; various residual categories of machinery (now provided for under tariff item 42700-1 in connection with the Machinery Duty Remission Program); materials or

(1) These end uses were specified in tariff items 469, 461 and 462 respectively.

(2) By tariff items 467 and 468. However, a duty of 10 p.c. was maintained in respect of "not made" textile machinery, except that used "for the manufacture of twine, cordage or linen, or for the preparation of flax fibre", which was accorded duty-free admission.

(3) Under tariff items 443 and 464(a).

(4) Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. An Interim Report. Fire-brick and Related Products (1981).

(5) See tariff items 281 and 524a.

articles of metal for use in the manufacture of washing machines or wringers; residual categories of electrical apparatus; woven fabrics for use in the making of hat bands; blankets or blanketing for printing presses; and hospital operating equipment and supplies.⁽¹⁾ The end uses specified in these items are illuminating in the sidelights they throw on the evolutionary aspect of the Canadian economy and on the emerging life styles and social values of the times.

As another manifestation of these changes, certain goods which had formerly been granted unrestricted entry now became subject to a "not made in Canada" proviso, presumably in order to provide a degree of protection to nascent Canadian industries. Thus, general duty-free access for chronometers and compasses for ships, initially conferred in 1906, was limited in 1929 to goods "of a class or kind not made in Canada" (qualifying applications, however, being extended, at this time, to usage in aircraft),⁽²⁾ while the preferential tariff treatment accorded since 1906 to "machinery of every kind and structural iron and steel ... for use in the construction or equipment of factories for the manufacture of sugar from beet root" was similarly circumscribed (in 1933).⁽³⁾

Up to the 1930's, goods "of a class or kind not made in Canada" falling under a particular tariff item were given similar preferential treatment regardless of origin. In this decade, however, a new factor entered into the situation. This was the period in which the Ottawa Conference, intended to stimulate trade within the British Empire, was held, and also the period in which Canada accorded MFN treatment to the United States, with substantial reductions in duties on goods from that country. During this period many of the new "not made" items, while affording assistance to certain Canadian industrial users through reductions in duties, also attempted to encourage trade with British Preferential countries by maintaining, or even increasing, the margins of preference accorded to BP goods over products originating in

(1) For the full nomenclature of these items, see Customs Tariff, 1930.

(2) Tariff item 369, renumbered in May, 1930 as item 440b.

(3) Tariff item 463, renumbered in May, 1930 as item 417.

MFN countries. By 1939 there were 28 items which provided free entry to "not made" goods under both the BP and MFN Tariffs, 36 items which conferred a margin of preference on BP goods, and four drawback items. There were also five items which did not themselves contain a made-in-Canada proviso, but under which the BP rate was reduced on "not made" goods because of commitments to Britain to maintain certain margins of preference on such goods.

Most of the pre-war items were retained with the coming into force of the GATT in the post-war era but the margins of preference tended to be reduced. Another development of the period was the creation of paired tariff items, one of which covered certain goods when "of a class or kind made in Canada", while the other applied to the same goods when "of a class or kind not made", thus avoiding detailed repetition in the listing of commodities. This device was used principally in revising the schedules applicable to goods used in discovering, exploiting and processing the products of the mining and oil industries, subsequent to Reference No. 130.⁽¹⁾

As a result of the Kennedy Round, effective January 1, 1968, three major "not made" provisions disappeared from the Customs Tariff. The "not made" arrangement applicable to machinery n.o.p. ("not otherwise provided for") was replaced by the "availability" criterion under the Machinery Duty Remission Program. The preferential tariff treatment for chemicals of a kind not produced in Canada, and a general free-entry provision (under the BP and MFN Tariffs) for materials of a kind not produced in Canada used in the plastics industry, were also both abolished. These latter two changes arose out of the Tariff Board's report on Reference No. 120.⁽²⁾ Some of the flexibility of the "made/not made" system was retained for these goods through the introduction of section 12 of the Customs Tariff, on which are based the present Chemicals and Plastics Tariff Reduction Orders. Generally speaking, favourable treatment under this authority has tended to be limited to goods which are of a kind not produced in Canada, but made-in-Canada status is, in this respect, no longer a legal criterion.

(1) Tariff Board, Reference No. 130. Machinery and Equipment Used in the Mining Industry and in the Oil and Gas Industries (1963).

(2) Tariff Board, Reference No. 120. Chemicals (1966-67).

The 112 tariff items referred to the Board for study in the present inquiry did not include every "made/not made in Canada" provision in the Customs Tariff at the time the reference was initiated. Excluded were two residual ("n.o.p.") items relating to diesel and semi-diesel engines, where the MFN duty differences applying to the "made" and "not made" goods have now been phased out,⁽¹⁾ and two "n.o.p." camera items, which have since been amalgamated.⁽²⁾ Part-item 69605-1, relating to utensils, instruments and other apparatus for teaching or research purposes, was converted from a "class or kind" approach to an "availability" formula in July, 1981.⁽³⁾ There remains one of the very earliest of the "not made" provisions, designed, like the forerunner of item 69605-1, to advance knowledge and understanding - viz: part-item 69900-1, pertaining to the skins of birds and animals "not natives of Canada" for taxidermic use. In addition, since the reference was received, nine new items applying to fruits and vegetables "of a class or kind grown/not grown in Canada" have been introduced into the Customs Tariff, following recommendations made by the Board in connection with Reference No. 152.⁽⁴⁾ Further stemming from a recommendation contained in the Board's report on Reference No. 155,⁽⁵⁾ item 89905-1 was introduced in October, 1980, providing duty-free entry for chemical and biological preparations "of a kind not produced in Canada", when for use in medical diagnosis by public hospitals or accredited medical laboratories.

Definitional and Administrative Considerations

The "not made in Canada" principle has never had general applicability in the sense that goods are allowed to enter free of duty simply because like goods are not made in Canada. Many goods are dutiable even though comparable products are not produced domestically, in many instances a

(1) Tariff items 42815-1 and 42816-1.

(2) Tariff items 46205-1 and 46210-1.

(3) See Customs Memorandum D49-33, July 1, 1981, superseded by D10-11-10, July 1, 1982. Tariff item 69605-1 was reviewed by the Board in Reference No. 155. Exemption from Duties for Certain Institutions and Goods (1978).

(4) Tariff Board, Reference No. 152. Fresh and Processed Fruits and Vegetables (1977-78). The tariff items in question are: 8747-1, 8748-1, 8906-1, 9007-1, 9222-1, 9223-1, 10503-1, 10523-1 and 10609-1.

(5) Op. cit., p. 49.

hold-over from the time when the Customs Tariff was the main source of revenue. At the same time, goods may be entitled to free entry without a "not made" distinction, even though similar articles are domestically produced.

The "made/not made" criterion did, however, have universal application with respect to special or dumping duties as they existed prior to the coming into force of the Anti-dumping Act. Under section 6 of the Customs Tariff, repealed in 1968 with the exception of subsection 10, these duties were applicable, when appropriate, to all goods "of a class or kind made or produced in Canada", and "not made" goods were exempt. Section 6 of the present Customs Tariff (the former subsection 10) defines the term "made in Canada" as follows:

For the purpose of this Act goods shall not be deemed to be of a class or kind made or produced in Canada unless so made or produced in substantial quantities; and the Governor in Council may provide that such quantities, to be substantial, shall be sufficient to supply a certain percentage of the normal Canadian consumption and may fix such percentages.

Under this authority, in 1936, the Governor in Council ordered that:

Articles shall not be deemed to be of a class or kind made or produced in Canada unless a quantity sufficient to supply ten percentum of the normal Canadian consumption of such article is so made or produced.⁽¹⁾

Although this regulation was originally introduced in connection with the determination of liability for anti-dumping duty, it was applied in the administration of the "made/not made" tariff provisions, and was retained for this purpose after the legislative changes of 1968, when the made-in-Canada status of the goods ceased, for most intents and purposes, to be a deciding consideration in establishing whether or not special or dumping duties should be imposed.⁽²⁾

(1) Order in Council P.C. 1618, 2nd July, 1936 (see Customs Memorandum D11-1-1, July 1, 1982).

(2) However, this criterion continues to be applied in the case of pharmaceutical products, the administrative regulations providing that when such products are "of a kind not made or produced in Canada", they should be exempt from the application of the Anti-dumping Act (see Customs Memorandum D14-1-1, July 1, 1982).

The only place where a statutory definition of "not made in Canada" can be found is subsection 7 of the Customs Tariff, dealing with the imposition of additional duty in respect of subsidized goods of a class or kind made or produced in Canada. This states:

Goods may be deemed to be of a class or kind not made or produced in Canada where similar goods of Canadian production are not offered for sale to the ordinary agencies of wholesale or retail distribution or are not offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade.

Thus, a good is deemed to be "of a class or kind made in Canada" when produced and offered in the ordinary course of trade in quantities equal to at least 10 per cent of Canadian consumption.

It might seem to follow from the law that an investigation should be carried out at the time of importation to determine whether or not Canadian producers are in a position to supply the necessary 10 per cent of the domestic market. However, such an inquiry is usually undertaken in detail only when the initial ruling of Customs and Excise, based on a more cursory investigation, is disputed, or when a change in an existing ruling is contemplated. In these cases, an analysis is carried out to establish the actual size of the market (production plus imports less exports) and the amount produced in Canada.

However, it is clear that, in some instances, goods which might theoretically qualify for a "made-in-Canada" classification under existing operational parameters have not been so registered. Doubtless, some such omissions can be explained by a lack of knowledge on the part of domestic manufacturers regarding the existence of the pertinent tariff provisions, or of the administrative regulations pertaining thereto, while other exceptions can be attributed to a simple failure - due to inertia or a discounting of the benefits to be gained thereby - to pursue a "made" ruling. In certain instances, however, it appears that domestic manufacturers have held back on account of a fear of black-listing by customers faced with the prospect of

having to pay more for competing foreign products. In yet other cases, manufacturers - perhaps mistakenly, at times, in view of the implication of a loss of protection on value added⁽¹⁾ - have been unwilling to relinquish duty-free access to imported parts in exchange for protection against competing finished products.

The classification of goods under "made" or "not made" provisions, or the refusal of such classification, is subject to appeal to the Tariff Board. Generally speaking, the Board has taken the position that, while it will rule whether a "made" or "not made" item might be applicable, the actual determination of made-in-Canada status, i.e. whether the percentage requirement has been met, is usually referred back to the Deputy Minister of Revenue Canada for Customs and Excise. The Board has not hesitated to rule when goods may be considered to be of the same, or of different, classes because of use or specification and, on occasion, to define the limits of a class by confirming or specifying appropriate criteria.

To complicate the issue further, the words "of a class or kind made/not made in Canada" are not precisely reproduced in all of the tariff items referred to the Board for study, and the presumption is that administrative practice by Customs and Excise will have been modified, to some extent, in order to accommodate the actual wording of the pertinent provisions. Thus, of the 112 referred items, 93 incorporate the aforementioned clause, while 19 have variants thereon,⁽²⁾ with the word "produced" being used as an alternate to "made" in a number of instances and with "types or sizes" and "colours and/or texture" being variously substituted for "class or kind". Whereas, there would appear to be no problem in equating the word "produced" with "made", the concept of "types or sizes" or "colours and/or texture" suggests

(1) However, see infra, p. 19.

(2) In the 112 items referred to the Board, the forms of wording and their frequency are as follows: "of a class or kind not made in Canada" (81); "of a class or kind made in Canada" (12); "of a kind not produced in Canada" (6); "of types or sizes not made in Canada" (5); "of a type not made in Canada" (3); "when not made in Canada" (2); "of a class or kind not produced in Canada" (1); "of a size not made in Canada" (1); "of colours and/or texture not produced in Canada" (1).

an altogether narrower construction than "class or kind". Likewise, the phrase "when"⁽¹⁾ not made in Canada", which appears in two of the referred items as a means of accommodating a changing domestic production situation, supposes the need for a higher degree of product refinement and administrative flexibility than one might look for in the interpretation of the more traditional "not made" phraseology.

There has also been some variation, over time, in the interpretation of the phrase "class or kind", particularly as opposed to "kind" when used alone, as in a number of items relating to chemicals and products of the chemical and allied industries. The phrase "class or kind" has been construed both disjunctively and conjunctively at different times. In more recent years the tendency has been to consider "class" a broader term than "kind". The latter, in the case of chemical products, has been held to require identical chemical composition. Thus, it is theoretically possible for a product to be of a kind "not made" but of a class "made". In other words, to be "of a class or kind not made", the product must be of neither "a class" nor "kind" made in Canada.

However, it would be well to recognize both from the viewpoint of the Department and the Board that there have been real difficulties in defining with precision what constitutes "class or kind". Justice Thorson, in a 1957 Exchequer Court case, summed up the problem in the following manner: "The words 'of a class or kind not made in Canada' are general terms appearing frequently in the Customs Tariff and it is not possible to lay down any single criterion of general application."⁽²⁾

Treatment of Parts

In Phase II of the reference there are 23 tariff items under which no special provision is made for parts of the parent goods.⁽³⁾ Although nine

(1) Our underlining.

(2) Tariff Board Reports, Vol. 1, 1937-1956, p. 188.

(3) There are eight such tariff items in Phase I. In addition, there are a further 11 items in the two phases under which the principal goods are themselves described as "parts", "materials", "materials, including all parts", or "articles ... for use in the manufacture of".

of these 23 items pertain to products made wholly or in chief part of metal, there is a strong presumption that parts, or components, are likely to be of especial importance in respect of goods, such as engines, machinery and many types of apparatus, which are manufactured by an assembly process.

The provision for parts has not always been a major element in the "made/not made" tariff arrangement. Indeed, many of the early "not made" items contained no provision at all for parts, or catered only for "complete" parts. With the passage of time and, presumably in response to pressure from interested sections of the business community, new provisions for parts were introduced, and existing provisions were widened. Thus, not only do 70 of the 112 referred items presently provide specifically for parts of the principal goods, but in only ten instances (two being in Phase II) do these parts now have to be "complete".

However, as already indicated, the classification - and hence, the dutiable treatment - of parts is not the same under all of the referred provisions. In 29 instances (16 being in Phase II) classification hinges upon whether or not the parts themselves are "of a class or kind made/not made in Canada". In another 41 instances (5 being in Phase II) the classification of the parts as "made" or "not made" depends, not upon the made-in-Canada status of the parts themselves, but upon the dutiable status of the main goods. In those instances where the classification of the parts is independent of the classification of the main goods, the made-in-Canada status of the parts is obviously a question for the Board to investigate directly. On the other hand, the Board has interpreted its terms of reference as indicating that it is not required to - and, indeed, in the normal course of events, should not - adjudicate upon the made-in-Canada status of parts in respect of those tariff provisions under which the classification of parts follows that of the principal products. The Board has felt that it has not been called upon to recommend changes in the relationship between the parent goods and parts, and only in exceptional circumstances has it been prepared to consider doing so. Hence, at various places in the background material circulated by the Board, statements such as the following occur: "the Board is not concerned with the made-in-Canada status of the parts", and "the made-in-Canada status of the parts is not a pertinent issue".

However, the tariff relationship between the parent goods and parts notwithstanding, there is no doubt that the dutiable treatment of imported parts (as distinct from principal goods) is viewed by a substantial proportion of interested parties as comprising the issue of major concern in the present context. Among those petitioning the Board in this regard have been Canadian manufacturers of components unhappy about the fact or prospect of duty-free entry of competing goods. Obversely, preferential tariff treatment of parts has been sought by some domestic producers who import most of their material inputs and export much of their output. For such producers, protection of the home market may be a marginal benefit, willingly conceded in exchange for unrestricted access to low-cost materials and components. While the latter objective may be achieved indirectly through the use of provisions for duty drawback,⁽¹⁾ those exporters making representations to the Board have appeared, not surprisingly, to favour the more direct and less time-consuming arrangement of duty-free entry, requiring a minimum of paperwork and no cash outlay. Among other parties making submissions, a desire for the preferential duty treatment of parts has also been expressed by industrial users, repairers and remanufacturers of some of the capital goods gaining entry under the referred tariff provisions. It is, of course, in the nature of most industrial capital equipment to wear out gradually, and for the operation of such equipment to be maintained through the piecemeal repair and periodic replacement of individual components of machinery and pieces of apparatus. It has appeared to the Board that many of the referred items falling into the machinery schedule of the Customs Tariff have been utilized to a large extent for precisely these purposes.

Other Tariff Arrangements

Eo Nomine Approach

The Minister has asked the Board to investigate the possibilities of replacing the "made/not made" tariff provisions by some other form, or forms,

(1) Under section 275 of the Customs Act, the Governor in Council may allow for drawback of duty "in respect of materials used in, wrought into or attached to goods exported, or in respect of materials (not to include fuel or plant equipment) consumed in the manufacture or production of any such goods".

of tariff treatment. Where simple elimination of these provisions does not appear to provide the desired answer, it is quite evident from the Minister's letter that the first and principal solution must be sought in the development of specific product (eo nomine) descriptions. Such descriptions, it is implied, are preferable to the existing "class or kind" provisions - or to the use of "availability" criteria - on account of the reduced opportunities for the exercise of administrative discretion and the greater element of certainty thereby afforded to exporters and importers with respect to duty payable. It is clear that the prospect of a less flexible system of classification is not to the liking of all interested parties; but in view of (i) the prime purpose of this reference, (ii) the traditional acceptance of statutory authority as the essential basis for the imposition of taxes, including import duties, and (iii) the impending introduction of the Harmonized Commodity Description and Coding System (HS),⁽¹⁾ with its strict arrangement by product divisions, some very compelling arguments might be thought necessary for such dissenting viewpoints to carry persuasive force.

Whether it will be possible for acceptable eo nomine commodity listings to be developed and, if so, how to structure them for tariff purposes, must depend in the first instance upon the success achieved in identifying and circumscribing the goods in question and in determining their made-in-Canada status. There should be little difficulty in those instances where individual product descriptions are already set out in the nomenclature of a "not made" tariff provision and all the goods classifiable thereunder are reported as being "not made". Assuming a continuation of present preferential duty treatment, the existing nomenclature could simply be retained without the qualifying clause "of a class or kind not made in Canada".

The situation becomes somewhat more complex when some or all of the goods listed in an eo nomine "not made" tariff item are reported as being "made" on the basis of the criteria adopted by the Board. From an industrial development standpoint the obvious course would be to exclude such "made" goods from the nomenclature of any new preferential (duty-free) item, and to

(1) Department of Finance, Canada, Adoption by Canada of Tariff Nomenclature and Statistical Classification System Developed by Customs Co-operation Council. Discussion Paper (July, 1981).

make them dutiable, either in their own item or by allowing them to fall into other (dutiable) parts of the Customs Tariff. However, since such situations could, in certain instances, result in demands for compensation by Canada's trading partners, it is necessary to pause in order to consider what would be lost by including the "made" goods (and also any of "uncertain" made-in-Canada status) in a preferential tariff provision encompassing the "not made" related products. Obvious variables to review in this regard would include the value of imports, the ratio of "made" to "not made" goods, and the comparative levels of duty.

The above comments are predicated upon the assumption that the goods in question are known and capable of identification and enumeration. However, as already noted, many of the products encompassed by this reference fall under very general commodity descriptions (such as "machinery and apparatus for use in ..." and "manufactures of metal for use in ...") which are of little use in providing a basis for an eo nomine approach. In certain instances, the "made/not made" provisions apply specifically to parts (q.v. item 44569-1) or materials (q.v. item 44205-1). Moreover, four of the referred items (all in Phase II) are drawback items in respect of which commodity detail and related values are not available. It seems clear that in cases such as these, it will not be possible to arrive at definitive eo nomine listings of all pertinent goods. It is also unlikely that the made-in-Canada status of every commodity included in a lengthy enumeration will be known with certainty. Of course, in some instances, where reliable and reasonably complete information exists, separate eo nomine treatment might be provided in relation to one or more of the classes of goods encompassed by wide-ranging commodity descriptions.

With respect to the treatment of the bulk - if not, all - of the goods falling under these very broad provisions, various approaches might be adopted. The different possibilities have already been outlined in Discussion Paper No. 1 and set out in more detail in papers previously circulated by the staff. For example, if, in the light of available information, it emerges that most of the relevant goods are "made", these (and possibly some, or all, of the goods categorized as being of "uncertain" status) could be listed in a

dutiable item, with all other goods being placed under a duty-free provision. One of the problems with this kind of arrangement (apart from the question of possible compensation) is the likelihood that the list of "made" goods would in some instances be very long. As a possible alternative arrangement, the "not made" goods could be listed in an eo nomine duty-free tariff item, with a basket dutiable provision being provided for the remaining goods, such goods to be unnamed and possibly made subject to duty remission when not available from domestic sources. In this way protection would be provided to any "made" goods and could readily be extended to any unlisted products not yet manufactured in Canada.

Of course, as already noted in Discussion Paper No. 1, in the case of paired ("not made" and corresponding "made") items, which are to be found mainly in the mining machinery and oilfield equipment schedules, reviewed in Phase I of this reference, the whole exercise of identifying products and determining their made-in-Canada status can be side-stepped by simply combining the paired provisions into a single item without any change in the existing nomenclature and applying a common rate of duty. The main problem with this approach, as was evident at the hearings, concerns the determination of duty, since any average which is struck will reduce existing protection on "made" goods and place an imposition on presently duty-free "not made" goods. Moreover, in the case of machinery items, if it is assumed that "not made" goods are "not available", the anomalous situation is reached whereby a duty will be imposed upon general-purpose "not made" machinery when intended for one of the designated (hitherto, preferred) end uses, while the same machinery when imported for general use will qualify for duty remission under the provisions of the "availability" program.

The "Availability" Formula

Of the various alternatives to an eo nomine listing of goods, that broached most frequently by interested parties has been the "availability"

concept as currently provided for in tariff item 42700-1 et al,⁽¹⁾ administered by the Department of Regional Industrial Expansion (formerly Department of Industry, Trade and Commerce) under the provisions of the Machinery Duty Remission Program. According to the guidelines issued by the aforementioned department, goods (machinery) are "considered to be available from production in Canada if at least one manufacturer has proven capability⁽²⁾ to manufacture machinery which, insofar as its range of physical qualities, operational characteristics and efficiency are concerned, is reasonably equivalent to the machinery for which remission is sought". Like the "made/not made" tariff prescription, the "availability" formula is attractive to some in that it permits changing situations to be accommodated through the exercise of administrative discretion; indeed, since "availability" criteria reflect not only production possibilities but also market tendencies, it is the more

(1) The principal "availability" provision is worded as follows:

Machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing:

42700-1 Other than the following

1/1/87 2.5 p.c. 9.2 p.c. 35 p.c. 2.5 p.c. 9.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in tariff items 42700-1 ... the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in these items applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

Certain named classes of machinery and associated goods are similarly provided for in items 42700-2, 42700-3, 42700-4, 42700-5, 42700-9, 42701-1, 42701-2 and 41100-1. Apparatus, utensils and instruments for use directly in teaching or research are covered by tariff item 69605-1, administered on the basis of regulations made and implemented by the Minister of Revenue Canada.

(2) Proven capability is deemed existing in Canada where: "(a) the full range of technical and physical capabilities necessary for production of the machinery exists within the operational framework of at least one manufacturer; and (b) such facilities have in fact produced machinery demonstrating competence reasonably equivalent to that required to produce the machinery for which remission is sought".

pliable arrangement. However, since the Machinery Duty Remission Program evolved in 1968 from earlier "made/not made" tariff provisions governing the importation of residual classes of machinery, a similar basic philosophy underlies both of these approaches; it follows, therefore, that any conceptual objections applied to the one may, in most instances, be levelled at the other.

Subsequently, there has been a high degree of interchangeability between tariff item 42700-1 and "made/not made" machinery provisions applying to the mining, oilfield and related sectors, in particular. In part, this situation would seem to stem from the fact that the end use of machinery capable of general-purpose applications, including those covered by "made/not made" provisions, is often not known at the time of importation. The closeness of the aforementioned relationship is underlined by the fact that, should any machinery-oriented "made/not made" items be deleted, the pertinent machines, together with their accessories, attachments, control equipment, tools and parts (but not other associated apparatus) would revert, in most instances, to tariff item 42700-1, and thus become subject to the Machinery Duty Remission Program. Accordingly, given the Minister's injunction that the "availability" concept should be resorted to only in "specialized circumstances" (if at all), simple elimination of the "made/not made" machinery items would evidently not provide a solution generally acceptable to the Minister.

An "availability" approach, however, is not completely ruled out. The Board can only infer the "specialized circumstances" which the Minister is prepared to concede, but these seem likely to consist primarily of those kinds of situations, already mentioned, in which a comprehensive eo nomine listing would not be feasible on account of the scale of the undertaking, the indeterminate nature of the subject area, and/or the large element of uncertainty in the information base. One may also conceive of other somewhat exceptional circumstances in which a need for flexibility may promote acceptance of the "availability" concept. Commodity areas in which there is rapid technological or economic change could conceivably provide such examples, as could areas in

which the materials or products at issue have strategic importance. Goods which are model-specific inputs, or otherwise difficult to categorize as being either "made" or "not made", might also be possible candidates for "availability" treatment. Except for situations of the latter type, circumstances such as those outlined above might alternatively point to retention of a "made/not made" prescription rather than the application of "availability" criteria.

However, assuming that a duty differential is to be maintained in respect of classes or kinds of goods made in Canada and those not so made, it needs to be recognized that the use of an "availability" formula, or retention of "made/not made" provisions, would not avoid, but would continue, the need to make judgments in regard to the made-in-Canada status of individual commodities. There is also the additional consideration that the administration of "availability" provisions (by the Machinery Branch of the Department of Regional Industrial Expansion) has until very recently been limited to machines only, albeit of a wide range, together with their accessories, attachments, control equipment, tools and parts. As already noted,⁽¹⁾ since July 1981, an "availability" formula has also been applied (by the Department of Revenue Canada, Customs and Excise) to certain categories of apparatus, utensils and instruments for use directly in teaching and research. If these provisions are to be further extended to encompass other goods such as electrical instruments, wood manufactures, steel products, apparatus of various kinds, and a diversity of materials, additional budgetary and manpower resources will presumably be required.

Considerations of "Continuing Relevance"

In his letter of reference to the Board, the Minister states that "there is a need to review the continuing relevance of the 'made/not made' items in the Customs Tariff in the light of the changes in tariff protection which have resulted from successive trade negotiations, including the recent 'Tokyo Round' of multilateral trade negotiations". Patently, in this context,

(1) Supra, p. 13.

the words "continuing relevance" have a key significance, and the way in which the Board interprets this term might reasonably be expected to have a critical bearing upon the shape and outcome of its deliberations. This issue is not, perhaps, as simple and straightforward as might appear at first sight. However, useful comment would seem to start with a consideration of the raison d'être underlying the establishment of the referred tariff provisions.

Accordingly, it may be recalled that the "made/not made" tariff arrangements have long historical antecedents dating back to the latter part of the nineteenth century. The principal general aim - then and since - has been to provide otherwise dutiable goods with duty-free entry, or access at preferred rates, when "of a class or kind not made in Canada" and (in the majority of instances) when imported for certain specified uses and/or for certain specified users. Thus, with respect to goods falling under such end-use provisions, preferential tariff treatment is accorded on a restricted basis without apparent adverse effects on Canadian industry. It is to be noted that, while some of the goods at issue are highly specific in regard to industrial end uses, many - perhaps the majority - are capable of being utilized in a broad spectrum of economic sectors. Hence, there is a problem of ensuring that the preferences conferred by the relevant tariff provisions are, and will continue to be, enjoyed by those for whom they are intended.

There is no doubt that in the past, more especially in the period spanning the 1930's and early post-war years, the tariff concessions embodied in the referred items conferred considerable benefits upon importer-users. In the case of "not made" goods entering under the BP Tariff (whose margins of preference were maintained and, in some instances, deliberately promoted by the "made/not made" provisions), an absolute rate advantage of as much as 27.5 p.c. could have been obtained, on occasion, in comparison with the duty applicable to "made" goods entering under the corresponding Intermediate or MFN Tariff. However, in more recent decades BP margins of preference have been significantly eroded and, in the case of goods emanating from the United Kingdom and Ireland, will completely disappear by 1987. More largely, the

progressive whittling away of import duties in the post-war years, as the result of successive rounds of multilateral trade negotiations, has substantially reduced levels of protection under the MFN Tariff and by 1987, when the final concessionary rates of the Tokyo Round become effective, comparatively few of the goods presently entering under the "not made" provisions will be liable under alternative tariff items to MFN rates of duty in excess of 10.2 per cent.

Viewed in terms of its impact on a user's unit production costs and profit performance, it may be surmised that a saving of 10.2 per cent with respect to the costs of selective - possibly minor - material inputs, particularly when in the form of investment goods depreciated over perhaps 20 or 30 years, will, in most instances, be very slight. The public hearings suggested that few users had given much thought to this aspect of the question; indeed, some users were apparently unaware whether the duty savings attaching to a "not made" designation were, in fact, being passed on to them by their suppliers. However, some users were apparently less concerned about the impact of duty charges on production costs than with the effect of such outgoings in aggravating problems of cash flow.

The conclusion that the benefits conferred by the "not made" tariff arrangements are, in some cases, no longer very real or very obvious would seem to be borne out by an apparent lack of interest in the future disposition of certain of the provisions under review. As indicated in Table 1, which sets out the salient features of these provisions (see pages 33-41), no submissions were received in relation to any of the goods falling under 10 of the 52 tariff items encompassed by Phase II of the reference, while representations made with respect to many of the remaining items impinged upon only very small segments of the pertinent commodity ranges. In the case of 24 Phase II non-drawback items (including eight of those in regard to which no submissions were received) the average annual value of imports in 1979-81 amounted to less than \$1 million. However, viewed from a more global standpoint, the privileges enjoyed by users under the "not made" tariff provisions still appear to possess considerable financial worth. In the years 1979-81, goods with an

average value of \$2.93 billion per annum entered under the "not made in Canada" tariff provisions coming within the scope of the present reference (of this amount Phase II items accounted for approximately \$1.63 billion). If these goods, which in the main were non-dutiable, had been liable to an average rate of duty of, say, 10 p.c., the yield in customs revenue would have amounted to \$293 million per annum - a not inconsiderable sum.

It might be argued, however, that to view the issue of "continuing relevance" solely from the standpoint of whether the advantages conferred by the "not made" tariff provisions are still worthwhile, is to place altogether too narrow a construction upon the Board's mandate in this regard, bearing in mind that the preferential treatment thereby extended to certain sections of the community has, in the last resort, to be paid for by the tax-paying population at large. Of course, the issue here is not just one relating to the incidence of taxation. There is also the broader question of economic and social priorities, and whether the preferential fiscal treatment embodied in the referred tariff provisions continues to make sense in the light of present-day national policy objectives. If the duty concessions which have been granted no longer properly reflect the goals of economic and social policy, or if such concessions have clearly ceased to be necessary to the viability or well-being of the beneficiaries, it would seem relevant to query whether the privileges in question should be perpetuated and, at a further remove, to ponder whether the national interest might not be better served by the preferment of a different body of interests. Even if, on national policy grounds, some form of special concessionary treatment may seem warranted, there is the additional question of whether - given the wide range of assistance programs and schemes sponsored or administered by government, and the limited possibilities for tariff manipulation in today's regulated international trading environment - the Customs Tariff remains the most appropriate vehicle for providing assistance, on a differential basis, to certain select groups or interests.

In the Board's view these are legitimate concerns, worthy of in-depth study, but given the time constraints which have been imposed and the absence of any positive direction from the Minister to address these issues directly,

the Board has not taken it upon itself to do so. Hence, the Board's position in this regard has been somewhat different from that put forward in Phase I of the inquiry by the Director of Investigation and Research, Combines Investigation Act, Department of Consumer and Corporate Affairs Canada, who observed that "the Minister's letter would not seem to preclude the Board from recommending changes which entail further tariff reductions if existing tariffs cannot be justified on social grounds". In this connection, it should perhaps be noted that the overwhelming bulk of the referred tariff items pertain to industrial inputs, rather than final consumer products (Phase I items 47825-1 and 47826-1, applying to goods for the disabled, being prime exceptions in this regard), so that the opportunities for the exercise of social criteria would appear to be severely limited.

Duty Considerations

On the subject of the rates of duty to be applied to the goods falling within the scope of the reference, the Minister observes that the Board should "use as a tariff level reference point the final concession rates agreed to in the Multilateral Trade Negotiations". It is further indicated that "to the extent possible, the Board should not make recommendations with respect to these [referred] items which, if implemented, would result in an overall increase in the levels of protection provided for in the new GATT Schedule for the relevant product categories".

What should constitute "relevant product categories" is left to the Board to determine. The possibilities are evidently very wide. At one extreme it might be argued, for example, that any type of machine falls into a "machinery product category", thus encompassing a very substantial proportion of the goods presently under review, while, at the other extreme, it is possible to conceptualize a product category in terms as narrow as "pumps" or "compressors". By focussing upon the Minister's use of the word "relevant" in this context it is possible to widen the options still further. The Board is authorized to review any tariff items which it considers "relevant" to this

reference; and it will be readily apparent that, insofar as the Board's recommendations might shift goods to or from other parts of the Customs Tariff, thereby resulting in changes in average levels of protection, the counterpart provisions, as well as those referred to the Board, should be brought within the ambit of study. This would manifestly be the case when some or all of the goods encompassed by an existing duty-free "not made" item are dropped from any new preferential tariff arrangement and, as a consequence, become dutiable under alternative provisions applying to like products. Clearly, the net effect of such a realignment would be to increase the overall level of protection in relation to the total of pertinent goods unless, at the same time, the rates of duty applicable to the expanded item or items were correspondingly reduced.

To estimate the tariff adjustments involved in an exercise of this kind would not appear to be conceptually difficult. However, at the practical case-study level, a summary review of the facts suggests that some formidable problems might be encountered in connection with the mechanics of such an operation. First, the pertinent rates of duty might include, not just one, but a multitude of alternative tariff provisions, some of which could prove difficult to identify, especially in relation to "parts" (which account for well over one half of the value of imports under some of the referred tariff items) and "materials". Secondly, an appreciation of the duty implications of reclassification changes along the lines indicated above would require the assembly and analysis of data on import values on a commodity class or individual product basis, not only in relation to the relevant referred provisions but also in respect of any other items which might be involved in the reclassification process, in order that appropriate statistical weights might be calculated and applied.

The Minister's letter states that the Board's recommendations, if implemented, should not result "in an overall increase"⁽¹⁾ in the levels of protection provided for in the new GATT Schedule". From this it might be

(1) Our underlining.

inferred that the rates of duty bound under GATT have been set at levels lower than the MFN rates applied in the pre-MTN Customs Tariff; and in the majority of instances this is so. However, reference to Table 1 indicates that, in the case of ten of the 52 referred Phase II items, the actual MFN rate of duty effective in 1979 was (and remains) lower than the GATT final (1987) concession rate. (There are also 18 such items in Phase I of the inquiry). All of these items, it might be noted, encompass goods of classes or kinds not made in Canada, and all, except tariff item 56710-1 (applying to woven fabrics), presently provide duty-free entry. If the GATT final concession rates of duty had been applied to these items in 1979-81, an additional \$70.4 million per annum could have been raised in customs revenue. Of this amount, \$11.7 million would have been in connection with the import of goods falling under Phase II of the inquiry, tariff item 43877-1 (pertaining to materials used in the manufacture of motor vehicle parts and accessories) accounting for over 90 per cent of this amount. The figure of \$11.7 million may be put into perspective by noting that it would have represented almost two-thirds of the customs revenue (of \$18.8 million) which would have accrued by applying 1987 duty rates to 1979-81 imports under all Phase II items, and by contrasting it with the \$11.9 million (or thereabouts) actually raised.

Thus, by pointing towards a change in the dutiable status of some of the major "not made" items under review, "a tariff level reference point" which was determined by "the final concession rates agreed to in the Multilateral Trade Negotiations" would, in effect, provide a substantial bonus to the revenue authorities, while protection would also be extended to Canadian producers of any pertinent goods not presently ruled to be "of a class or kind made in Canada". The privileged position of the users of these goods, however, would be undermined. On the other hand, a Board recommendation for continued duty-free entry in relation to all or any of the goods presently encompassed by these "not made" provisions, if negotiated with Canada's trading partners and subsequently written into the Statute Book, would presumably have the effect of rescinding the recent GATT binding, thereby making it more difficult for the domestic production of such goods to become established. Future import replacement would have to take place without the benefit of tariff protection or would require compensation to Canada's trading partners.

One possible solution, which would seem particularly applicable in the case of certain of the paired items, would be to have a single dutiable item listing all goods, both "made" and "not made", followed by a provision temporarily reducing the duty of the statutory item to Free in relation to any of the specified goods which the Board's studies have indicated are presently not made in Canada. Such a temporary reduction could be effected by Order in Council pursuant to section 273 of the Customs Act, provided that this section (upon recommendation by the Board) is amended to authorize temporary reductions in duty for goods other than "articles ... used as materials in Canadian manufactures", as currently specified in section 273(1). Alternatively, the Board could recommend that such temporary reductions be carried out by Governor in Council under an amended section 12 of the Customs Tariff, which currently provides for reductions of duties on chemicals and plastics items, or under a new section to that Act similar to section 12. Another possibility would be to use the authority presently available under section 17 of the Financial Administration Act, which permits the Governor in Council on the recommendation of the Treasury Board "whenever he considers it in the public interest" to "remit any tax, fee or penalty".

The tariff arrangement envisaged above would enable the GATT concessionary rates applying to the pertinent "not made" goods to be made statutory and, hence, permanent. At the same time, in the light of representations made to the Board, the notion of duty-free entry for selected goods on a temporary basis might be expected to appeal to some parties because it would permit a degree of flexibility to be exercised. Changes to the list of Free goods would be made by Governor in Council, rather than by an amendment passed by Parliament, without necessitating compensation in those instances involving the reinstatement of protection. Such changes might be made on an on-going basis or at the end of whatever temporary duty-free period is thought appropriate. Final revisions coincident with the termination of this arrangement would see the "not made" goods encompassed in a permanent duty-free eo nomine provision. It should be noted that, in the event of this arrangement not proving acceptable to the Government, it would already incorporate all of the commodity information necessary for an eo nomine alternative which would be statutory in its entirety.

TABLE 1

REFERRED TARIFF ITEMS: ANALYTICAL FRAMEWORK

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)			Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)			
									\$'000			$'000
21950-1	Chemicals, except antibiotics	Manufacture of animal or poultry feeds	Not Made	Free	Free	42.4	-	-	2	Yes	
30620-1	Ornamental or decorative marble	In interior work in churches	Not Made	Free	(Free)	0.0(d)	-	-	7	No	
31500-1 Ex.	Carbons	Manufacture of dry batteries and dry cells	Not Made	Free	(Free)	(4.2)	-	-	3	Yes	
32645-1	Moulded illuminating shades, reflectors and refractors of glass	With light fixtures or with portable lamps	Not Made	15 p.c.	Free	3.2	473	-	3	Yes	
32669-1	Reflectors and refractors of glass, imported to be silvered, aluminized acid-etched or combined with a spun aluminium cover	With lighting fixtures	Not Made	Free	Free	0.3	-	-	3	No	
35235-1	Centrifugally-cast bronze shells or tubes	Manufacture of rolls for paper-making machinery	Not Made	Free	Free	0.4	-	-	4	No	
39225-1	Rotor shaft forgings, rough machined, not less than 50,000 pounds in weight	Manufacture of electric motors and electric generators	Not Made	Free	9.2 p.c.	0.2	-	14	4	No	

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
40700-1	Silent chain and finished roller chain, of iron or steel, and complete parts thereof	N.A.	Not Made	15 p.c.	9.2 p.c.	19.3	2,888	1,771	4	Yes
41106-1	Specified goods	Repair of self-propelled trucks which have been modified for carrying a load in the operation of logging	Not Made	Free	8 p.c.	0.4	-	31	6	Yes
42726-1	Ball and roller bearings n.o.p. & parts	N.A.	Not Made	Free	(Free)	99.4	-	-	4	Yes
43806-1	(Specified goods & parts thereof (diesel-powered dump trucks, (fire-fighting vehicles, (motor vehicles, n.o.p., (and electric trackless (buses	Manufacture or repair of) diesel-powered dump trucks,) fire-fighting vehicles,) motor vehicles, n.o.p.,) and electric trackless) buses)	Not Made	Free	Free	84.9	-	-	6	Yes
43807-1	(	)	Made	12.5 p.c.	8 p.c.	23.1	2,885	1,846	6	Yes
43811-1	Specified articles & parts thereof	As original equipment by a manufacturer of passenger automobiles n.o.p. (output = less than 10,000 vehicles)	Not Made	Free	Free	0.2	-	-	6	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Concession	Pre-MTN 1979	Rate 1987(a)	Average Annual Imports 1979-81(b)	Estimated Duty(c)		Hearing Group	Sub-mission
										1979 MFN Rate(b)	1987 MFN Rate(b)		
										\$'000	\$'000		
43812-1	Specified articles & parts thereof	As original equipment by a manufacturer of passenger automobiles n.o.p. (output = 10,000 to 20,000 vehicles)	Not Made	Free	Free				0.0(d)	-	-	6	Yes
43813-1	Specified articles & parts thereof	As original equipment by a manufacturer of passenger automobiles, n.o.p. (output = greater than 20,000 vehicles)	Not Made	Free	Free				0.0(d)	-	-	6	Yes
43814-1	Specified articles & parts thereof	As original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, etc. (output = less than 10,000 vehicles)	Not Made	Free	Free				0.3	-	-	6	Yes
43815-1	Specified articles & parts thereof	As original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, etc. (output = greater than 10,000 vehicles)	Not Made	Free	Free				0.1	-	-	6	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b)	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
						\$million	\$'000	\$'000		
43816-1	Specified articles & parts thereof	In the repair of diesel-powered dump trucks, fire-fighting vehicles, motor vehicles, n.o.p. etc., or the manufacture of repair parts therefor	Not Made	Free	Free	57.0	-	-	6	Yes
43819-1	Specified articles & parts thereof	Manufacture of motor trucks, motor buses, electric trackless trolley buses, fire-fighting vehicles, ambulances, hearses, and the chassis for same	Not Made	12.5 p.c.	8 p.c.	38.2	4,774	3,056	6	Yes
43820-1	Specified articles & parts thereof	As original equipment for motor trucks, motor buses, etc.	Not Made	Free	Free	9.3	-	-	6	Yes
43821-1	Specified articles & parts thereof	In the repair of motor trucks, motor buses, etc., or for use in the manufacture of repair parts therefor	Not Made	Free	Free	180.7	-	-	6	Yes
43824-1	Internal combustion engines & parts thereof	Manufacture of motor trucks, motor buses etc.	Not Made	12.5 p.c.	8 p.c.	0.8	97	62	6	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff			Average Annual Imports 1979-81 (b) \$million	Estimated Duty (c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)	1987(b)		1979 MFN Rate(b) \$'000	1987 MFN Rate(b) \$'000		
43825-1	Internal combustion engines & parts thereof	As original equipment for motor trucks, motor buses, etc.	Not Made	7.5 p.c.	5.5 p.c.	0.2	0.2	17	13	6	Yes
43826-1	Internal combustion engines & parts thereof	The repair of motor trucks, motor buses, etc. or the manufacture of repair parts therefor	Not Made	7.5 p.c.	5.5 p.c.	6.4	6.4	480	352	6	Yes
43861-1	Bumper face bars of bare metal	Manufacture of motor vehicle bumpers	Not Made	Free	9.2 p.c.	0.3	0.3	-	28	6	Yes
43877-1	Materials	In manufacture of parts, and accessories and parts thereof, except tires and tubes, for passenger automobiles, buses, etc.	Not Made	Free	10.2 p.c.	103.8	103.8	-	10,587	6	Yes
44022-1	Manufactures of metal	In the construction or equipment of ships or vessels	Not Made	Free	Free	167.5	167.5	-	-	5	Yes
44059-1	Specified goods & parts thereof	In aircraft, aircraft engines, or airborne aircraft equipment or parts	Not Made	Free	Free	517.4	517.4	-	-	5	Yes
44205-1	Materials & parts wholly or in chief part of metal	Manufacture of specified machines and equipment for use in specified industries (e.g. logging, agriculture, commercial fishing)	Not Made	Free	Free	192.6	192.6	-	-	7	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81 (b) \$million	Estimated Duty (c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987 (a)		1979 MFN Rate (b)	1987 MFN Rate (b) \$'000		
44305-1	Ovens	Commercial bakeries	Not Made	7.5 p.c.	Free	2.4	183	-	4	No
44560-1	Lamp bases of metal	In the manufacture of incandescent electric lamps for motor vehicles	Not Made	Free	10.2 p.c.	1.1	-	113	6	Yes
44569-1	Steatite ceramic parts	Manufacture of resistors	Not Made	Free	9.2 p.c.	0.3	-	24	3	No
44643-1	Articles of which iron, steel or nickel are the component material of chief value	Manufacture of electric storage batteries	Not Made	10 p.c.	6.8 p.c.	0.7	67	46	3	No
46400-1	Steel dies valued at not less than one thousand dollars each	Stamping metal sheets or metal plates	Not Made	Free	Free	0.0(d)	-	-	4	No
47605-1 Ex.	Operating room lights designed to minimize shadows, not including bulbs	N.A.	Not Made	Free	9.2 p.c.	(6.8)	-	629	3	No
47615-1	Prepared surgical sutures	N.A.	Not Made	Free	Free	7.6	-	-	7	Yes
53415-1	Press blankets or blanketing	With printing presses	Not Made	Free	Free	0.5	-	-	1	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty (c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b) \$'000	1987 MFN Rate(b) \$'000		
56255-1	Fabrics	Manufacture of screens for printing	Not Made	Free	Free	0.8	-	-	1	Yes
56705-1	Woven fabrics, wholly or in part of man-made fibres or filaments, in the web or with fused edges	Manufacture of sails for boats or ships	Not Made	Free	7.5 p.c.	2.7	-	204	1	Yes
56710-1	Woven fabrics, wholly or in part of man-made fibres or filaments	Manufacture of insignia for sails for boats and ships	Not Made	7.5 p.c.	(25 p.c.)	0.0(d)	1	3	1	Yes
56930-1	Hat braids, not exceeding six inches in width	Manufacture of hat bodies or shapes	Not Made	Free	(Free)	0.2	-	-	1	Yes
56935-1	Materials	In the manufacture of woven, knitted or plaited hat braids	Not Made	Free	(Free)	0.0(d)	-	-	1	Yes
68200-1 Ex.	Metal swivels and specially-designed needles	Repair of fish nets	Not Made	Free	Free	(22.7)	-	-	7	Yes
85800-1	Zeolites	Manufacture of cracking catalysts for the refining of petroleum	Not Made	Free	Free	0.7	-	-	2	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Concession Rate 1987(a)	Pre-MTN 1979		1979 MFN Rate(b)	1987 MFN Rate(b)		
86000-1	Materials	Catalysts in the refining of petroleum	Not Made	Free	Free	13.1	-	-	2	Yes
86400-1	Ackyl thiols, antimony oxide, ferrous sulphate, magnesium oxide, inorganic pigments, surface-active agents, synthetic waxes etc.	Manufacture of ABS resins or ABS moulding compositions	Not Made	Free	Free	0.4	-	-	2	Yes
92944-2	Antibiotics, crude and antibiotic intermediates in crystalline form	Manufacture of antibiotics	Not Made	Free	9.2 p.c.	0.4	-	39	2	No
93819-14	Chemical products and preparations (with certain exclusions)	Catalysts in Canadian manufactures	Not Made	Free	Free	21.6	-	-	2	Yes
97052-1	Machines, precision instruments and apparatus and control panels therefor	In the production of motor vehicles, motor vehicle parts or motor vehicle accessories (Drawback item)(e)	Not Made	-	-	(f)	-	-	6	Yes
97053-1	Machinery, precision instruments and apparatus and control panels therefor	Manufacture of aircraft, aircraft engines, airborne aircraft equipment or parts (Drawback item)(e)	Not Made	-	-	(f)	-	-	5	Yes

TABLE 1 (concl.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty (c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN	1987 MFN		
							Rate(b) \$'000	Rate(b) \$'000		
97056-1	Materials as per tariff item 44205-1	Manufacture of specified machines and equipment for use in specified industries (e.g. logging, agriculture, commercial fishing) (Drawback item)(e)	Not Made	-	-	(f)	-	-	7	Yes
97071-1	Materials	Manufacture or repair of aircraft, aircraft engines, or airborne aircraft equipment (Drawback item)(e)	Not Made	-	-	(f)	-	-	5	Yes
Totals:						1,634.5	11,872	18,818		

(a) Entries in brackets indicate earlier binding or binding of parent item(s).

(b) Figures in brackets indicate values in relation to an entire tariff item, as opposed to that part of an item falling within the scope of the reference.

(c) Applied to the average annual value of imports in 1979-81, and assuming all such imports to be subject to the M.F.N. Tariff.

(d) Positive amount of less than \$50,000.

(e) Goods subject to drawback per se are not specifically provided for in MTN Schedule V Tariff Concessions. Prior to 1980 the portion of duty payable as drawback was 99 per cent. The portion now payable is 100 per cent.

(f) No import data available.

CHAPTER 3. REVIEW OF INDIVIDUAL TARIFF ITEMS: INTRODUCTION

In the following chapters the assembled facts and viewpoints pertaining to the tariff items under reference are set out and reviewed by the Board on an item-by-item basis within a group framework. In each instance, a narrative description of the referred and related tariff provisions is followed by a summary account of imports and a résumé of the submissions to the Board. The concluding section in regard to each item, or combination of items, contains the Board's observations with respect to the foregoing evidence and its recommended tariff solution.

It may be noted that, for obvious reasons of economy, not all of the evidence previously disseminated by the Board and its staff is presented in these reviews. For further information respecting the historical background of the referred tariff items, the rulings published by Revenue Canada covering the goods at issue, the commodity class detail of imports under the items, and Canadian producers of the relevant goods, reference should be made to the pertinent background papers and staff appraisals.

The Board has obviously drawn heavily upon these publications and other material circulated to interested parties, but rather than reproducing such material in its entirety, the Board has been especially concerned in the present report to draw attention to any supplementary information which has become available and to indicate any changes in the Board's thinking, particularly with respect to the made-in-Canada status of the designated goods. Where the disposition of specific products or commodity classes hitherto designated as "uncertain" is seen by the Board to have a direct bearing upon its tariff recommendations, or to be directly affected thereby, the new status of such product categories has been recorded. In this regard, it should be noted that most of the commodity classes whose made-in-Canada status is listed in earlier documentation as "uncertain" have been imported under "not made in Canada" tariff provisions; in the absence of information to the contrary, therefore, these classes of goods have generally been considered by the Board as not made in Canada, and hence as eligible for preferential tariff treatment, usually duty-free entry.

On the more general issue of made-in-Canada determinations, it has already been pointed out⁽¹⁾ that the inadequacies of Revenue Canada rulings for product descriptive purposes have militated against the use of these rulings for made-in-Canada prescriptions in the present instance. The process whereby the Board has sought to establish the made-in-Canada status of goods falling within the ambit of the referred tariff provisions (involving the review of commodity class descriptions, first, by the Department of Industry, Trade and Commerce, and secondly, by representatives of the business community), has been described in an earlier section of this report.⁽²⁾ It may, however, need to be stressed that, with this process, an interpretation different from that understood by the customs administration has been given to the term "of a class or kind made/not made in Canada". Whereas, under Revenue Canada guidelines, a good is not considered to be "of a class or kind made" unless at least 10 per cent of the Canadian market can be supplied by domestic producers, in the case of the review undertaken for the Board, production on any scale in Canada has generally served to secure a "made" designation. It will be appreciated that, in practice, the main difference between these two approaches lies in the element of protection afforded to infant industry.

As already indicated,⁽³⁾ a total of 125 written submissions (excluding supplementary briefs) were received by the Board in connection with Phase II of the reference. A number of these submissions, especially in connection with tariff provisions pertaining to machinery, equipment, parts and accessories used in the manufacture of motor vehicles, encompassed more than one item.

The rates of duty set out in the following pages, reading from left to right, are respectively those applicable under the British Preferential Tariff, the Most-Favoured-Nation Tariff, the General Tariff, the General Preferential Tariff, and the United Kingdom and Ireland Tariff. The rates of duty set out in the Board's recommendations have reference to an effective date of January 1, 1987.

(1) Supra, p. 5.

(2) Supra, p. 6.

(3) Supra, p. 7.

In the discussion of individual tariff items, alternative classifications are given for many of the goods at issue. These are based on the best information available to the Board. However, the inclusion of such classifications is not to be taken as confirmation of their accuracy; the Board will not consider itself bound by anything said in this report in the event of any of the goods in question becoming the subject of an appeal under the appeal provisions (sections 46 to 50) of the Customs Act.

CHAPTER 4. TEXTILE PRODUCTS AND CHEMICALS

Introduction

The "textiles" provisions denoted by the above heading comprise six tariff items governing the importation of such diverse goods as blanketing for printing presses, fabrics for use in the manufacture of screens for printing, woven fabrics for use in the manufacture of sails for boats and ships and of insignia for such sails, braids for use in the manufacture of hat bodies or shapes, and materials for making such braids. The "chemicals" provisions encompass six tariff items relating, respectively, to products for use in the manufacture of animal or poultry feeds, chemical products and preparations for use as catalysts in Canadian manufactures, materials for use as catalysts in the refining of petroleum, zeolites for use in the manufacturing of cracking catalysts for petroleum refining, alkyl thiols and various other products used in the manufacture of ABS resins or moulding compositions, and crude antibiotics and antibiotic intermediates. Of the textile items, numbers 56705-1 and 56710-1 refer to goods "of a type not made in Canada", while the others delineate goods "of a class or kind not made in Canada". Of the chemical items, all but 93819-14 refer to goods "of a kind not produced in Canada"; the exception covers materials "of a class or kind not made in Canada".

Of the 12 tariff items reviewed here, all but one elicited submissions from interested parties. Judged from the standpoint of the number of submissions received, tariff item 93819-14 (pertaining to materials used as catalysts in Canadian manufactures) appears to have been the subject of most widespread concern, attracting submissions from 11 individual companies and industry groups. The chemicals items, in general, attracted most of the interest pertinent to this section of the inquiry.

The interest in item 93819-14 was doubtless stimulated, in part, by the substantial value of imports entering thereunder, although in this regard, it was surpassed by tariff item 21950-1 (pertaining to chemicals used in the manufacture of animal or poultry feeds). Indeed, in 1983, almost 81 per cent of the total value of goods imported under the tariff provisions reviewed in

this chapter were attributable to these two items. When imports under tariff item 86000-1 (relating to materials for use as catalysts in the refining of petroleum) are added, the figure rises to over 90 per cent. Conversely, there were no imports under tariff item 56935-1 (pertaining to materials for use in the manufacture of woven, knitted or plaited hat braids) in five of the seven years between 1977 and 1983, while the value of imports under tariff item 56710-1 (relating to woven fabrics for use in the manufacture of insignia for sails) was less than \$10,000 in both 1981 and 1982.

Tariff Item 53415-1

Existing Tariff Provisions

This item provides for:

Press blankets or blanketing, of a class or kind not made in Canada, for use with printing presses

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

Free entry under the MFN Tariff is bound under GATT.

When of a class or kind made in Canada, the press blankets and blanketing would be classified under item 53417-1. This is worded:

Press blankets or blanketing, n.o.p., for use with printing presses

1/1/84	10 p.c.	13.8 p.c.	25 p.c.	9.0 p.c.	12.5 p.c.
1/1/85		13.3 p.c.		8.5 p.c.	
1/1/87		12.5 p.c.		8.0 p.c.	

The MFN rate of 12.5 p.c., effective 1987, is bound under GATT.

Imports

The average annual value of imports under tariff item 53415-1 amounted to \$509,000 in 1979-82, rising to \$611,000 in 1983. Corresponding imports under the counterpart provision for "made" goods (item 53417-1) totalled \$4.5 million and \$6.4 million respectively.

Submissions

The Canadian Textiles Institute was the only party to present a brief in respect of item 53415-1. The Institute indicated that it would not object to the continuation of a duty-free item, without the words "of a class or kind not made in Canada", but doubted whether there would then be any purpose in continuing tariff item 53415-1 at all "as it would merely duplicate item 53417-1 if the restrictive phrase 'of a class or kind not made in Canada' were deleted".

Conclusions and Recommendations

The existing tariff arrangement relating to press blankets and blanketing for use with printing presses permits a distinction to be drawn between the referred tariff item and item 53417-1 on the basis of the made-in-Canada status of the relevant goods. However, inasmuch as the Board has been advised that press blankets and blanketing for use with offset printing presses are made in Canada, while blankets and blanketing for use with other printing presses - notably, those for letterpress printing - are not so made, the basis for distinguishing between the two aforesaid items could quite simply be changed from "class or kind made/not made" to alternative end use. This would provide protection (as under a former administrative ruling) for press blankets and blanketing for use with offset printing presses, and duty-free entry for other pertinent goods. Accordingly, it is recommended that existing tariff items 53415-1 and 53417-1 be deleted and replaced by the following:

Press blankets or blanketing:

53415-1	For use with offset printing presses				
	10 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.
53416-1	Other				
	Free	Free	10 p.c.	Free	Free

Tariff Item 56255-1

Existing Tariff Provisions

Prior to the MTN, this was a temporary (Order in Council) item, created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item. Its coverage is indicated by its wording:

Fabrics, of a class or kind not made in Canada, for use in the manufacture of screens for printing

Free	Free	45 p.c.	Free	Free
------	------	---------	------	------

Free entry under the MFN Tariff is bound under GATT.

Although the item itself contains no specifications as to the types of fibres used, and does not prescribe that the fabrics must be woven, it is understood that virtually all fabrics used for the purpose specified meet the commodity description of tariff item 56205-1; this description would apply to fabrics of a class or kind made in Canada for use in the manufacture of screens for printing, or to all such fabrics in the absence of item 56255-1. The wording of item 56205-1 is as follows:

Woven fabrics, wholly or in part [containing more than five per cent, by weight] of man-made fibres or filaments or of glass fibres or filaments, not containing wool or hair, not including fabrics more than fifty per cent, by weight, of silk:

Exceeding 30 cm in width

1/1/84	20 p.c.	25 p.c.&	45 p.c. &	-	25 p.c.
per kg.		16.5 cts.	88 cts.		
1/1/85		25 p.c.&			
per kg.		11 cts.			
1/1/87		25 p.c.			

The MFN rate applicable to item 56205-1 was bound at 25 p.c. in the MTN.

Imports

The value of imports under tariff item 56255-1 has been comparatively small, averaging \$0.8 million per annum in 1979-82, and \$1.0 million in 1983. By contrast, corresponding imports under related item 56205-1 amounted to \$56.5 million and \$73.2 million respectively.

Submissions

The Canadian Textiles Institute was the only party to present a brief to the Board in respect of item 56255-1. The Institute, on behalf of those of its members who are dyers and finishers, requested continued provision for the duty-free entry of fabrics for use in the manufacture of screens for printing, and indicated that it "would have no objection" to the continuation of tariff item 56255-1 without the qualifying clause "of a class or kind not made in Canada".

Conclusions and Recommendation

Since the goods in question are not apparently made in Canada, it is the Board's recommendation that this item be retained without the qualifying clause "of a class or kind not made in Canada". The following is therefore proposed:

56255-1 Fabrics for use in the manufacture of screens for printing

Free

Free

45 p.c.

Free

Free

Tariff Item 56705-1

Existing Tariff Provisions

Woven fabrics, wholly or in part of man-made fibres or filaments, in the web or with fused edges, of a type not made in Canada, for use in the manufacture of sails for boats and ships

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, originally created in 1963 under the authority of section 273 of the Customs Act, providing for certain types of woven fabrics as described in the item. It will be noted that the word "type" is used instead of "class or kind". Although this remains a temporary item, with an effective rate of Free, entry under the MFN Tariff was bound at 7.5 p.c. in the MTN. The item is currently scheduled to expire on June 30, 1985.

When of a type made in Canada, or in the absence of this item, the goods would be classified in the parent item 56700-1, which is worded:

Sails for boats and ships; textile fabrics, in the web or with fused edges, for use in the manufacture of such sails

This item carries a MFN rate of 20 p.c., bound under GATT in the Kennedy Round.

Imports

The average annual value of imports under item 56705-1 amounted to \$2.7 million in the period 1979-82, and to \$2.9 million in the year 1983. Corresponding imports under item 56700-1 (encompassing "made" sail fabrics) were valued at \$1.2 million and \$1.5 million respectively.

Submissions

The Canadian Textiles Institute presented the only submission in respect of tariff item 56705-1. The Institute indicated that it would not object to the continuation of a duty-free item, without the words "of a type not made in Canada". However, the Institute also advised the Board that in view of capability to manufacture the relevant fabrics in Canada, item 56705-1 should continue to exist on a temporary basis, i.e. the item should not be made statutory.

Conclusions and Recommendation

As none of the goods falling under tariff item 56705-1 presently appears to be made in Canada, continued free entry would not seem to pose any problems for the Canadian textile industry, while conferring some benefit upon domestic manufacturers of sails. The existing nomenclature of the item could therefore be retained, without the words "of a type not made in Canada".

The Board does not, however, recommend extending the item on a temporary basis, in its present or modified version, as argued by the Canadian Textiles Institute. To do so would leave a degree of uncertainty with respect to the ultimate tariff treatment of the goods in question which, in the light of the terms of reference supplied by the Minister, might be thought contrary to the spirit of the inquiry. While, as represented by the Institute, Canadian producers may possess "capability of manufacturing" the goods at issue, the same might be said of many other products proposed by the Board for statutory recognition in duty-free ("not made") provisions. Moreover, the fact that goods falling under the referred item are subject to a bound MFN rate substantially different from that applicable to the parent item (7.5 p.c., as opposed to 20 p.c.) may be thought to point to the desirability of making some permanent tariff provision in this regard. Accordingly, the Board recommends that the following modified version of tariff item 56705-1 be accorded statutory recognition, to be governed by the same constraints and procedures respecting deletion or further amendment as apply generally to all statutory tariff items:

56705-1 Woven fabrics, wholly or in part of man-made fibres or filaments, in the web or with fused edges, for use in the manufacture of sails for boats and ships

Free Free 25 p.c. Free Free

Tariff Item 56710-1

Existing Tariff Provisions

Woven fabrics, wholly or in part of man-made fibres or filaments, of a type not made in Canada, whether or not coated or impregnated or backed with removable paper, for use in the manufacture of insignia for sails for boats and ships

Free 7.5 p.c. 25 p.c. Free 7.5 p.c.

This is a temporary tariff item, originally created in 1971 under the authority of section 273 of the Customs Act, providing for certain types of fabrics as described in the item. As in item 56705-1, the word "type" replaces "class or kind". The item is currently scheduled to expire on June 30, 1985. It is not bound under GATT but would be subject to the binding applicable to its parent item (see infra).

In the absence of item 56710-1, or when of a type made in Canada, the relevant goods would fall under parent item 56205-1 or 57401-1. Under both items, the MFN rate was bound at 25 p.c. in the MTN.

Imports

During the period 1979-82, average annual imports under item 56710-1 amounted to only \$10,000. In 1983, imports were valued at \$30,000. However, this low level of importation may be accounted for, in part, by the fact that insignia for sails are apparently ordinarily made from the same types of fabrics as the sails to which they are applied, admissible under item 56705-1 (supra).

Submissions

The Canadian Textiles Institute made the only submission respecting tariff item 56710-1. The Institute indicated that it would not object to the continuation of the item, without the clause "of a type not made in Canada", at such duty rates (including Free) "as the Board may see fit to recommend".

Conclusions and Recommendation

It is the Board's understanding that the goods described in 56710-1 are not made in Canada. However, in view of the low value of imports under the item, the Board recommends that it should be allowed to expire.

Tariff Item 56930-1

Existing Tariff Provisions

The coverage of this item is indicated by its wording:

Hat braids, of a class or kind not made in Canada, whether woven, knitted or plaited, not exceeding 152 mm in width, for use in the manufacture of hat bodies or shapes, but not for use in the ornamentation or trimming of such bodies or shapes

Free	Free	Free	Free	Free
------	------	------	------	------

Free entry under the MFN Tariff is bound under GATT.

In the absence of this item, or when of a class or kind made in Canada, hat braids would fall under tariff item 56510-1 as "braids of all kinds, n.o.p.". The MFN rate under this item was bound at 20 p.c. in the MTN.

Imports

Imports under item 56930-1 have been of comparatively small value, averaging \$189,000 annually in 1979-82 and amounting to \$93,000 in 1983.

Submissions

The Canadian Textiles Institute was the only party to comment upon tariff item 56930-1. The Institute indicated that it would not object to the continuation of this item, without the phrase "of a class or kind not made in Canada", provided that the end-use requirement remains unchanged.

Conclusions and Recommendation

It is the Board's understanding that the hat braids described in item 56930-1 are not made in Canada. The present description of the goods appears to require no further refinement. The simplest tariff solution, therefore, would be to retain the item without the clause "of a class or kind not made in Canada". Thus:

56930-1 Hat braids, whether woven, knitted or plaited, not exceeding 152 mm in width, for use in the manufacture of hat bodies or shapes, but not for use in the ornamentation or trimming of such bodies or shapes

Free	Free	Free	Free	Free
------	------	------	------	------

Tariff Item 56935-1

Existing Tariff Provisions

This item provides for "materials" of a class or kind not made in Canada for use in the manufacture of hat braids. Such materials would principally consist of fibres, filaments, yarns or rovings of various textile materials. The item is worded:

Materials, of a class or kind not made in Canada, for use
in the manufacture of woven, knitted or plaited hat braids

Free	Free	Free	Free	Free
------	------	------	------	------

Free entry under the MFN Tariff is bound under GATT.

In the absence of this item, or when of a class or kind made in Canada, the materials cited above would be classified under a wide range of items depending upon their textile composition and degree of manufacture.

Imports

Imports under item 56935-1 were valued at \$11,000 in 1979 and \$4,000 in 1983; there were no recorded imports in 1980, 1981 or 1982.

Submissions

The Canadian Textiles Institute was the only party to present a brief in respect of item 56935-1. The Institute stated that it would object to the "mere deletion" of the phrase "of a class or kind not made in Canada", as this would extend duty-free entry to unspecified fibres and yarns now made in Canada for use in the manufacture of hat braids. However, the Institute also noted that this objection would not be maintained if the specified end use were to be narrowed to "the manufacture of hat braids of tariff item 56930-1".

Conclusions and Recommendation

It is the Board's view that if an eo nomine listing were to be developed, more definitive information would be required respecting the product specifications and made-in-Canada status of the pertinent goods. In this instance, however, in view of the lack of imports in recent years, the Board recommends the deletion of tariff item 56935-1 from the Customs Tariff.

Tariff Item 21950-1

Existing Tariff Provisions

Chemicals, except antibiotics, of a kind not produced in Canada, without admixture or mixed only with any necessary carrier or diluent, when for use in the manufacture of animal or poultry feeds

Free

Free

25 p.c.

-

Free

The item applies to chemicals other than antibiotics, without admixture, or mixed with any necessary carrier or diluent, for use in the manufacture of animal feeds. For the purposes of this item, the term "chemicals" includes not only separate chemically-defined compounds, but also mixtures of such compounds which do not result from deliberate admixture - e.g. fatty acids (which are mixtures of related acids occurring naturally together in some materials such as corn oil) or mixtures of ethylene glycols resulting from the manufacturing process. Many chemicals, whether or not separate chemically-defined compounds, require to be diluted before they can be used in feedstuffs, and such chemicals, in a diluent, or with an added necessary carrier (because also they are liquid), could, in themselves, be feed supplements. Free entry under the MFN Tariff is bound under GATT. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than "of a class or kind not produced". Revenue Canada has ruled that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

When of a kind made in Canada and also not qualifying for entry under any other end-use item, the chemicals in question would largely fall under the appropriate headings and tariff provisions of Chapters 928 and 929 of Group XII of the Customs Tariff. Bound rates under GATT vary from Free to 12.5 p.c., depending upon the individual chemical concerned.

Imports

Imports under tariff item 21950-1 have been substantial, averaging \$43.3 million per annum during the period 1979-82. In 1983, the value of imports reached \$49.9 million.

Submissions

Representations concerning the goods falling under tariff item 21950-1 were received from four manufacturing firms which import chemicals thereunder.

May & Baker Canada Inc., Mississauga, Ont., while advocating various changes to the provisional listing of chemicals admissible under this item, as recorded in Table 4 of Background No. 8, did not indicate any preference respecting an alternative to the present system of tariff classification.

Likewise, Monsanto Canada Inc., Mississauga, Ont., initially had "no specific recommendation with respect to the structure of a tariff item to accommodate the elimination of the 'not made' criterion". Subsequently, in response to the staff appraisal, the company indicated that it would favour the adoption of a modified version of the present item, with the "not produced" proviso deleted and with any "made" goods listed as exclusions therefrom.

Tuco Products Company, Division of Upjohn, Orangeville, Ont., recommended "an eo nomine list of chemicals in conjunction with the present wording of tariff item 21950-1", and continuation of duty-free entry under the item.

Cyanamid Canada Inc., Willowdale, Ont., considered that it should be possible to arrive at a chemical definition of all materials properly classified under the item, although, for this purpose, it felt that 7-digit non-specific nes ("not elsewhere specified") commodity classes were "not adequate". The firm favoured a revised wording, as follows:

The following chemicals, without admixture or mixed only with any necessary carrier or diluent, when for use in the manufacture of animal or poultry feeds, namely: (an alphabetical eo nomine listing of goods).

As an alternative to the above, Cyanamid noted that the item could be eliminated, "adding the specific imported chemicals on an eo nomine and end-use basis [presumably, at preferential rates of duty] under the respective tariff items in Chapters 928 and 929 [of the Customs Tariff] under which they would otherwise be classified".

Conclusions and Recommendations

The evidence indicates that the overwhelming preponderance of relevant products are not produced in Canada. Of the 60 commodity classes listed in the relevant staff appraisal,⁽¹⁾ 43 encompassed goods to which a "not made" designation was attached in whole or in part, while three-quarters of the remaining product categories were given an "uncertain" made-in-Canada identity. No further information having been received respecting these latter classes, the Board has determined that these also should be regarded as not made in Canada. To list all the "not made" goods would clearly result in a lengthy enumeration, while the problem, noted by Cyanamid Canada Inc., of how to refine the descriptions of the broad "nes" commodity classes entering under the item, would remain unresolved. A listing of "made" goods would not only be much shorter, but it would also have the additional advantage of circumventing the definitional problem relating to non-specific or "nes" commodity classes, since none of these has been designated as "made".

However, the Board is reluctant to opt for this solution. Very few goods of possible relevance to this tariff provision have been identified as "made", even though the term "chemicals", which appears in the nomenclature, covers a great diversity of products. There is, therefore, in the Board's view, a strong possibility that certain Canadian-produced goods of potential concern have escaped identification - the more especially since, in the present instance, attention has been focussed primarily upon commodity classes entering under a "not made" item. Thus, the specification of "made" goods in a replacement provision would very probably result in a loss of protection for some Canadian producers of the relevant goods.

One way out of this difficulty would be to eliminate tariff item 21950-1 in its entirety, thereby allowing the pertinent products to fall into their more accustomed places in Group XII of the Customs Tariff, and to provide duty relief, where appropriate, by way of the Chemicals and Plastics

(1) Staff Appraisal. Textile Products and Chemicals, pp. 34-5.

Tariff Reduction Order. The Board recognizes that such a solution falls short of the simple eo nomine treatment generally favoured by the Minister in his letter of reference, but it feels that such a departure is warranted by the balance of considerations in the present instance.

Accordingly, the Board recommends:

1. That tariff item 21950-1 be struck from Schedule "A" of the Customs Tariff and not be replaced.
2. That section 8(b) of the Chemicals and Plastics Tariff Reduction Order (P.C. 1981-2857, October 15, 1981), as reproduced in Revenue Canada, Departmental Memorandum D12-3-1 (March 7, 1983), be amended by the addition of the words: "or for use in the manufacture of animal or poultry feeds".

Tariff Item 85800-1

Existing Tariff Provisions

Zeolites of a kind not produced in Canada for use in the
manufacture of cracking catalysts for the refining of
petroleum

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

The coverage of this tariff item is indicated by its wording. Prior to the MTN negotiations this was a temporary (Order in Council) item created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item. Free entry under the MFN Tariff is bound under GATT. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than of a "class or kind not produced". Revenue Canada has ruled that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

When of a kind made in Canada, the zeolites addressed in this item would generally be classified in tariff item 93819-1, with a MFN bound rate of 12.5 p.c. Exceptions would be any zeolites which are: (a) single chemically-defined compounds, which would be classified in the appropriate item or sub-item under the proper headings of Chapters 928 and 929 of Group XII of the Customs Tariff; (b) crude natural products which would be classified according to their own nature or material; or (c) themselves catalysts as described in tariff item 93819-5. This latter item is worded:

Catalyst preparations for cracking petroleum, other than
the fluid-bed type

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

The MFN rate applying to item 93819-5 is bound at Free under GATT.

Imports

The average annual value of imports under tariff item 85800-1 in 1979-82 amounted to \$1.0 million. Imports in 1983 were valued at \$3.6 million.

Submissions

Shell Canada Limited made the only submission relating to tariff item 85800-1. In its submission, the company proposed that a modified version of the existing nomenclature be retained, the words "of a kind not produced in Canada" and "cracking" being deleted; a dutiable provision would provide for named zeolites of a kind produced in Canada. Thus:

Zeolites for use in the manufacture of catalysts for the
refining of petroleum with the exception of the follow-
ing:
- (list of exceptions ...)

Shell also proposed that, in addition to zeolites, other materials imported for the manufacture of catalysts should be accorded duty-free entry when not available from production in Canada.

Conclusions and Recommendation

Four of the six commodity classes listed in the relevant staff appraisal⁽¹⁾ with respect to item 85800-1 were given an "uncertain" made-in-Canada designation. No further information regarding the status of these classes having been elicited, the Board decided that all should be categorized as "not made". This leaves only one "made" class - viz: "catalysts, silica-aluminum, compounded" (c.c. 429-22-70).

Respecting the nomenclature of a replacement item, the Board finds itself in general agreement with the proposal submitted by Shell Canada Limited. However, deletion of the word "cracking" (as applied to catalysts), and provision for materials other than zeolites (as suggested by the company) would broaden the coverage of the item to an unknown extent.

Therefore, the Board recommends the following:

85800-1 Zeolites, excluding compound aluminum silicates, for use in the manufacture of cracking catalysts for the refining of petroleum

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

Tariff Item 86400-1

Existing Tariff Provisions

Alkyl thiols; N,N-bis (2-hydroxyethyl) alkyl amines; anti-mony oxide; ferrous sulphate, heptahydrate; inorganic pigments; magnesium oxide; surface-active agents; synthetic waxes; all the foregoing, of a kind not produced in Canada, for use in the manufacture of ABS resins or ABS moulding compositions

Free	Free	15 p.c.	Free	Free
------	------	---------	------	------

(1) Ibid., p. 52.

Prior to the MTN, this was a temporary (Order in Council) item, created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item. Its coverage is indicated by its wording. Free entry under the MFN Tariff is bound under GATT. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than "of a class or kind not produced". Revenue Canada has ruled that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

In the absence of the item, or when of a kind produced in Canada, the goods would be dutiable as follows:

	<u>Item</u>	<u>MFN Bound Rate</u>
Alkyl thiols		
- separate chemically-defined compounds	92931-1	12.5 p.c.(a)
- other	93819-1	12.5 p.c.
N,N-bis-(2-hydroxyethyl) alkyl amines		
- separate chemically-defined compounds	92923-1	12.5 p.c.(a)
- other	93819-1	12.5 p.c.
Antimony oxide		
- natural	33502-1	Free(b)
- chemical	92828-2	Free(c)
Ferrous sulphate, heptahydrate	92838-11	8.5 p.c.
Inorganic pigments	93207-3	12.5 p.c.
Magnesium oxide		
- 94 p.c. pure or over	92818-2	Free
- other	29610-1	9.2 p.c.
Surface-active agents	93402-1	12.5 p.c.
Synthetic waxes	93404-1	6.8 p.c.

(a) Under the Chemicals and Plastics Tariff Reduction Order, some or all of the relevant products would be allowed free entry when imported for the uses specified in item 86400-1.

(b) Effective MFN rate of 3.1 p.c. in 1985.

(c) Temporary rate reduction under the Chemicals and Plastics Tariff Reduction Order; in the absence of this order, a MFN rate of 3.1 p.c. is scheduled for 1985.

Imports

The average annual value of imports under tariff item 86400-1 during the period 1979-82 was \$342,000, having declined from a peak of \$742,000 in 1978. In 1983, imports were valued at \$474,000.

Submissions

Submissions relating to goods falling under this item were received from two manufacturers of ABS resins and two importers/distributors of materials.

Monsanto Canada Inc., Mississauga, Ont., one of the aforesaid producers of ABS resins, indicated a preference for a tariff arrangement comprising an eo nomine listing of "not made" goods; such a listing, however, to exclude antimony oxide and magnesium oxide of more than 94 per cent purity, since these materials already enjoy duty-free entry, without regard to end use, under other tariff provisions. Not spelt out by the company, but concomitant with such an arrangement, the words "of a kind produced in Canada" would be deleted from the nomenclature of existing item 86400-1, while the "made" goods would revert to alternative provisions elsewhere in the Customs Tariff. In a supplementary submission made in response to the staff appraisal (in which Monsanto's proposal was advanced as "the most appropriate tariff arrangement"),⁽¹⁾ the company indicated a particular concern regarding the tariff treatment of inorganic pigments and, in this connection, put forward a refined version of its original proposal, worded as follows:

The following materials when for use in the manufacture of
ABS resins or ABS moulding compositions, namely:

Alkyl thiols
N,N-bis-(2-hydroxyethyl) alkyl amines
.....
(Other named products determined "not made")
.....
Inorganic pigments except the following:
.....
[A listing of "made" inorganic pigments]
... Free

(1) Ibid., p. 64.

Borg-Warner Chemicals, which manufactures ABS resins at its production facility in Cobourg, Ont., suggested several possible tariff arrangements. As a first choice, it proposed the formulation of "separate tariff items specific to materials used in the production of ABS resins where this can be done without destroying essential confidential information, and where it is practical to do so having regard to the specificity required". In the event of this proposed solution proving impractical, the company favoured "a basket type item for materials used in the production of ABS resins when not available from production in Canada" or alternatively, retention of the existing item, at least for those materials where it would be inappropriate to provide specific listings of "made" or "not made" products - for example, in the case of inorganic pigments. In response to the staff appraisal, Borg-Warner Chemicals indicated that an eo nomine listing of "not made" goods (as originally suggested by Monsanto) would be acceptable to the firm providing that the new item not only made provision for duty-free entry, but also excluded "a listing of specific inorganic pigments for reasons of confidentiality". Further, the company was concerned that "such an item would not provide assurance that pigments not made in Canada and new to the ABS process would be added as required", and it concluded that "other means" would need to be found for retaining the existing duty-free status of "not made" inorganic pigments used in the manufacture of ABS resins. The company's solution would be the establishment of a new tariff item, worded:

Inorganic pigments not available from Canadian production
when used in the manufacture of ABS resins ... Free

Commenting on the broader issue of the possible use of the Chemicals and Plastics Tariff Reduction Order as a means of providing duty-free entry for various otherwise dutiable products, the company cited certain detracting considerations, from the importer's standpoint, in this regard - viz: the temporary basis for the duty relief thereby provided, the requirement for periodic renewal under the order, and - in consequence - the susceptibility of duty concessions to policy change. Referring to its unease concerning the existing necessary use of this order as a means of obtaining duty-free access to imports of antimony oxide under tariff item 92828-2, the company took a different position from that put forward by Monsanto Canada Inc. and adopted in the staff appraisal, by requesting the continued coverage of this product in any replacement provision for tariff item 86400-1.

The concern expressed by Borg-Warner Chemicals and Monsanto Canada Inc. with respect to the tariff treatment of inorganic pigments was reiterated by Ciba-Geigy Canada Ltd., Mississauga, Ont., an importer of the goods at issue, who pointed out that while, in many cases, products imported for use by the domestic ABS resin industry "are of a class manufactured in Canada, they are, at the same time, of a kind not currently available from Canadian manufacturers due to the technological differences within a generic type". In this regard, the company referred specifically to certain cadmium pigments (generically identified as "cadmium sulfoselenides"), noting that within individual classifications there are "a variety of products, differing in characteristics such as hue, purity and strength, each one a different kind". A number of these "kinds" of cadmium pigments, as well as certain cadmium mercury-sulfide compounds (designated as "mercadiums"), needed in the manufacture of ABS resins and/or moulding compositions were, according to the firm's intelligence, not available from Canadian sources of production. In Ciba-Geigy's view, the aforementioned inorganic pigments should continue to receive duty-free treatment when imported for the end uses specified in tariff item 86400-1; to make those materials dutiable would be to impose a significant cost penalty on Canadian ABS resin and moulding composition manufacturers.

In regard to another relevant product area, M & T Chemicals Ltd. of Hamilton, Ont., which distributes antimony oxide made by an associated company in the United States, proposed the continuation of duty-free entry of antimony oxide under tariff item 86400-1 and - more especially - under item 92828-2 [which, as indicated above, is presently subject to a temporary reduction-in-duty order and has a bound MFN rate of Free, effective January 1, 1987].

Conclusions and Recommendations

The Board notes that no direct representations, either written or verbal, were received from Canadian manufacturers of the specific chemicals or product groups named in tariff item 86400-1. All four relevant submissions have been from users or importers having an interest in the preservation of

duty-free entry. In this connection, the tariff treatment of inorganic pigments has been represented to the Board as a problem area of particular concern - so much so, that doubt has now been cast upon all the made-in-Canada designations listed in the staff appraisal with respect to such pigments, even though Canadian manufacturers apparently produce some of the goods at issue. Thus, the Board has learned that all the pigments listed as "made" under c.c. 427-99-89 can be deleted therefrom, for one or more of the following reasons: they are organic pigments, incorrectly categorized as inorganic pigments; they are not properly classifiable to this commodity code; they are no longer made in Canada; or they are, in the case of orange toners, inadequately described. Consequently, the Board now assigns "not made" status to the aforementioned commodity class, without exception. Further, the Board has been informed that any resolution of such uncertainties by a refinement of product characteristics, would entail the divulgence of commercially confidential information. Without in-depth technical study, the Board is not in a position to question the validity of this argumentation. Its acceptance, however, obviously imposes constraints upon the type of tariff solution to be adopted.

Apart from the uncertainty now attaching to inorganic pigments, there is also a lack of information regarding the made-in-Canada status of heptahydrate ferrous sulphate and synthetic waxes other than ethylene-bis-stearamide (provisionally designated in the staff appraisal as "made") and polyethylene glycol with over 15,000 molecular weight (listed as "not made"). In view of the fact that tariff item 86400-1 pertains to chemical products "of a kind not produced in Canada", the Board, in the absence of any evidence to the contrary, has determined that these categories of goods of "uncertain" made-in-Canada status should be designated as "not made". Accordingly, the only products enumerated in the aforementioned referred item which are now viewed as qualifying for an unconditional "made" identity are: surface-active agents (all commodity classes listed in the staff appraisal), magnesium oxide with a purity of less than 80 per cent, and ethylene-bis-stearamide (being a synthetic wax). These products would need to be excluded from an eo nomine listing of "not made" goods, while magnesium oxide more than 94 per cent pure could also be dropped on account of its freedom of entry elsewhere in the

Customs Tariff. On the other hand, provision could continue to be made for antimony oxide, as requested by Borg-Warner Chemicals. If inorganic pigments are provided for as at present - an arrangement which the Board somewhat reluctantly concedes - the replacement provisions would be as follows:

86400-1 Chemicals for use in the manufacture of ABS resins or ABS moulding compositions, namely:

Alkyl thiols;
N,N-bis (2-hydroxyethyl) alkyl amines;
Antimony oxide;
Ferrous sulphate, heptahydrate;
Magnesium oxide between 80 per cent and 94 per cent pure;
Synthetic waxes other than ethylene-bis-stearamide

Free	Free	15 p.c.	Free	Free
------	------	---------	------	------

86400-2 Inorganic pigments of a kind not produced in Canada for use in the manufacture of ABS resins or ABS moulding compositions

Free	Free	15 p.c.	Free	Free
------	------	---------	------	------

Tariff Item 92944-2

Existing Tariff Provisions

Antibiotics, crude, and antibiotic intermediates, structurally based on 6 amino-penicillanic acid, not further processed than extracted from their primary fermentation liquors, in crystalline form, of a kind not produced in Canada, for use in the manufacture of antibiotics

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, currently scheduled to expire on June 30, 1985, created under the authority of section 273 of the Customs Act. Its coverage is described by its wording. While this item is not bound under the GATT, the goods would be subject to the binding applicable to its parent item 92944-1. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than "of a class or kind not produced". Revenue Canada has ruled that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

In the absence of this tariff item, or when of a kind produced in Canada, the relevant goods would be classified under the parent item 92944-1 ("antibiotics, other than the following"), in relation to which the MFN bound rate is 9.2 p.c.

Imports

The average annual value of imports under tariff item 92944-2 during the period 1979-82 was \$479,000, having peaked at \$888,000 in 1978. In 1983, the value of imports fell sharply to \$43,000.

Submissions

No submissions were received in respect of item 92944-2.

Conclusions and Recommendation

Only one relevant commodity class - viz: 413-69-10 ("antibiotics nes, in bulk") - was identified in the pertinent staff appraisal⁽¹⁾ as entering under tariff item 92944-2. This class was - and still remains - of "uncertain" made-in-Canada status. However, the Board concludes that the goods at issue are most probably not domestically produced and for this reason favours retention of a modified version of the item, as opposed to deletion, in spite of the apparent lack of interest pertaining thereto and the comparatively low value of imports thereunder. Deletion of the clause "of a kind not produced in Canada" would result in a replacement item worded as follows:

92944-2 Antibiotics, crude, and antibiotic intermediates, structurally based on 6 amino-penicillanic acid, not further processed than extracted from their primary fermentation liquors, in crystalline form, for use in the manufacture of antibiotics

Free

Free

25 p.c.

Free

Free

(1) Ibid., p. 65.

Tariff Items 93819-14 and 86000-1

Existing Tariff Provisions

These two tariff items apply to materials for use only as catalysts.

I. Item 93819-14

Goods can only be classified under tariff item 93819-14 when they meet the description of the item (which requires, inter alia, that they be otherwise classifiable under item 93819-1) and are also in conformity with heading 93819 of Group XII of the Customs Tariff. The provisions of the heading and of items 93819-1 and 93819-14 are reproduced below, together with the wording of item 93819-5, which also has application to catalysts.

93819 - Chemical products and preparations of the chemical or allied industries (not including those consisting of mixtures of natural products other than compounded extenders for paints), n.o.p.; residual products of the chemical or allied industries, n.o.p.; not including soap, nor pharmaceutical, flavouring, perfumery, cosmetic or toilet preparations:

93819-1 Other than the following

1/1/84	10 p.c.	13.4 p.c.	25 p.c.	8.5 p.c.	12.5 p.c.
1/1/85		13.1 p.c.			
1/1/87		12.5 p.c.		8.0 p.c.	

93819-5 Catalyst preparations for cracking petroleum, other than the fluid-bed type

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

93819-14 Materials, of a class or kind not made in Canada, which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufactures

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

Prior to the MTN, item 93819-14 was a temporary tariff item created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item, with free entry under the MFN Tariff bound

under GATT. Subject to the aforementioned constraints, the item provides for materials "of a class or kind not made in Canada" for use as catalysts in any branch of Canadian manufacturing activity.

Goods excluded from item 93819-14 because they are made in Canada are classifiable, as indicated by the item, in item 93819-1, which has a MFN rate of 12.5 p.c., bound in the MTN. There are, however, a number of other tariff items relevant to catalysts. Attention has already been drawn, above, to the provisions of tariff item 93819-5. In addition, the reader is directed to an earlier section of this report dealing with tariff item 85800-1⁽¹⁾ and to the review of item 86000-1, below. Tariff items 86000-1 and 93819-5, which have the same rates of duty as those applicable under tariff item 93819-14, would take precedence over this latter item in the appropriate circumstances.

II. Item 86000-1

In the case of item 86000-1, the materials are for use as catalysts in the refining of petroleum. This item is worded:

Materials of a kind not produced in Canada for use only as
catalysts in the refining of petroleum

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

Prior to the MTN, this was a temporary item created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item and free entry under the MFN Tariff is bound under GATT. It will be noted that the made-in-Canada criterion is "kind", not "class or kind" as in tariff item 93819-14. In the case of chemical products, such as are involved here, Revenue Canada, Customs and Excise, has tended to hold that to be of the same "kind", goods must be virtually identical. The word "materials" used in this item covers single natural materials usable as catalysts which would otherwise be classified according to their own material or nature. The term is also broad enough to include both prepared or compounded catalysts and catalysts which are separate chemically-defined compounds.

(1) Supra, pp. 59-61.

In the absence of item 86000-1, or when of a "kind produced" in Canada, the latter goods would fall under the appropriate provisions of Chapters 928 and 929 of Group XII of the Customs Tariff, at various rates of duty. The alternative provisions for compounded or prepared petroleum catalysts all fall under heading 93819 of Group XII and are set out above.

Imports

The following figures indicate the value of imports under the two referred tariff items and item 93819-5 during the five most recent years for which data are available.

<u>Item</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
- \$'000 -					
86000-1	7,631	15,776	15,857	15,731	9,529
93819-5	4,239	4,658	5,501	5,809	5,030
93819-14	<u>9,082</u>	<u>31,636</u>	<u>24,152</u>	<u>18,079</u>	<u>27,014</u>
	20,952	52,070	45,510	39,619	41,573

Imports under the three items have been substantial, amounting to \$41.6 million in 1983. Moreover, while this figure was double that for 1979, it was considerably less than the corresponding total for 1980, due to a reduction in imports under tariff items 86000-1 and 93819-14. The value of goods imported under item 93819-5 has tended to increase in recent years, while remaining well below the levels for the two referred items.

Submissions

The tariff items under review attracted considerable interest, together eliciting submissions from 12 interested companies or organizations, six of these making representations in respect of both referred items.

I. Item 93819-14

In a submission applying to both tariff items, Shell Canada Limited of Toronto, Ont., proposed that item 86000-1 should be eliminated and its provisions combined with those of tariff item 93819-14. Shell also recommended that a new item 93819-14 should be established, with the following wording:

Materials for use only as catalysts in Canadian manufactures with the exception of the following:

1. Fluid bed silica-alumina cracking catalyst for use in the refining of petroleum, composed of:-
 - (1) Synthetic components (Silica Alumina),
 - (2) Clay and synthetic components (Silica Alumina).
2. Catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and polyaromatic saturation of petroleum feed stocks, in hydrotreating service only.
3. Nickel based catalysts in a fatty ester carrier for use in the hydrogenation of vegetable, animal and marine oils and other fatty materials.

Shell anticipated that goods under the proposed item would be free of duty, while those listed as exceptions would be dutiable, as at present. In a subsequent communication to the Board, the company observed that it would have "no objection" to a tariff solution posed in the staff appraisal,⁽¹⁾ whereby: (i) existing tariff items 86000-1 and 93819-14 would be merged under the latter item (as suggested by Shell), thus providing for mixed compound catalysts for all envisaged uses; (ii) the broader duty-free coverage presently provided by item 86000-1 with respect to separate chemically-defined compounds for use as catalysts in the refining of petroleum, would be furnished by extending the scope of the Chemicals and Plastics Tariff Reduction Order to encompass such compounds for the aforesaid use; and (iii) any unmixed natural materials for use as catalysts in the refining of petroleum presently accommodated in tariff item 86000-1, would be allowed to fall under alternate tariff provisions, many of which now provide for duty-free entry.

⁽¹⁾ Ibid., p. 58.

With respect to other submissions, Imperial Oil Limited of Toronto, Ont., favoured retention of a modified version of tariff item 93819-14. In this connection, the company objected to the Shell proposal, discussed above, on the ground that any item falling under heading 93819 would, by definition, be limited to mixed compound materials, while existing item 86000-1 can apply to separate chemically-defined compounds or to single natural materials when they are usable as catalysts in the refining of petroleum. Imperial Oil also objected to the apparently restrictive nature of the Uniroyal proposal, discussed below. The company advocated specifying only "made" goods because of difficulties in establishing a comprehensive listing of "not made" products, and suggested replacing tariff item 93819-14 by the following:

Materials which otherwise would be classified under tariff
item 93819-1, for use only as catalysts in Canadian
manufactures

Free	Free	25 p.c.
------	------	---------

with the exception of the following: (catalysts identified
by other industries as being made in Canada)

Rates of duty as per tariff item 93819-1 [i.e. 1987
MFN rate of 12.5 p.c.]

In a subsequent submission, Imperial Oil Limited indicated its apparent acceptance of the tariff solution propounded in the staff appraisal (described in the preceding paragraph), observing that this would result in an item worded as follows:

Catalysts which otherwise would be classified under tariff
item 93819-1

Free	Free	25 p.c.
------	------	---------

with the exception of the following:

- Fluid bed silica-alumina cracking catalyst, composed of synthetic components (silica alumina) or clay and synthetic components (silica alumina).

- Hydrotreating catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and polyaromatic saturation of petroleum feedstocks.

- Nickel based catalysts in a fatty ester carrier for use in the hydrogenation of vegetable, animal and marine oils and other fatty materials.

Rates of duty as per tariff item 93819-1 [i.e. 1987 MFN rate of 12.5 p.c.]

The company, in light of "the changing nature of catalyst development and use", indicated some concern that the chemical preparations thus recognized as made in Canada would be permanently excluded from free entry. However, Imperial Oil further noted that "while it is not a specified condition it can usually be taken that the chemicals on the exception list [governed by the Chemicals and Plastics Tariff Reduction Order] are made in Canada". Consequently, "chemicals now accorded free entry as catalysts [under tariff item 86000-1] would not likely have their dutiable status changed when considered as chemicals under Chapters 928 and 929" of the Customs Tariff. Moreover, it was the company's impression that the use of natural materials, for catalytic purposes is declining; accordingly, while the tariff solution posed in the staff appraisal makes no specific provision for such materials, their fate "may not be that significant an issue to the Board". Finally, with reference to a statement contained in the staff appraisal, the company noted that it "would agree that tariff item 93819-5 is redundant on the presumption that the catalyst provided for could in fact be classified under item 93819-14 or its proposed successor".

Several of the other submissions made at the time of the group hearing indicated agreement with the original proposal put forward by Imperial Oil Limited. Thus, Gulf Canada Limited of Toronto, Ont., recommended a replacement provision for item 93819-14 identical to that initially proposed by Imperial Oil Limited, while also advocating the use of "more defined" commodity descriptions so that "not made" catalysts could continue to enjoy duty-free treatment. The Ontario Petroleum Association favoured naming the "made" goods, in view of the difficulties of listing or adequately describing the "not made" catalysts currently in use. The OPA also put forward an item identical to that proposed by Imperial Oil and Gulf (two of its members). Likewise, May & Baker Canada Inc., an associate of the Institute Francais de

pétrole, indicated, in a verbal statement, its support of the position taken by Imperial Oil. None of the aforesaid parties responded to the staff appraisal, so it is not known whether their positions might subsequently have been modified to accord with the restated submission of Imperial Oil Limited.

For consideration at the group hearing, Monsanto Canada Inc. of Mississauga, Ont., which uses a number of catalysts in its manufacturing processes, put forward a basically similar proposal to that advanced by Imperial Oil, except for a suggestion that the eo nomine listing of "made" goods should perhaps contain "in addition to the nickel and molybdenum and cobalt catalysts, products or compounds containing enzymes listed as eo nomine under 92940". Responding to the staff appraisal, the company indicated a continued preference for a listing of "made" goods, additionally suggesting a shortened and simplified preamble thereto. Thus:

Catalysts which otherwise could be classified under tariff item 93819-1 with the exception of the following:

-[listing of "made" goods]

... Free

Emery Industries Limited of Toronto, Ont., which manufactures fatty acids and related specialty chemicals, in a reformulation of its original proposal, indicated acceptance of the tariff solution initially proposed by Imperial Oil Limited, providing that duty-free entry would not be withheld from "nickel based catalysts in a fatty ester carrier for use in the hydrogenation of vegetable, animal and marine oils and other fatty materials". In support of its request, the company drew the Board's attention to a change in the official made-in-Canada status of the aforesaid goods from "made" to "not made", effective February 16, 1983.

Uniroyal Chemical, Division of Uniroyal Ltd., of Elmira, Ont., which imports catalysts under tariff item 93819-14 for use in the manufacture of certain chemical products, proposed retention of free entry for "not made" catalysts imported by the company, and the rewording of item 93819-14 to read:

Preparations containing platinum, palladium and/or their metal salts, for use only as catalysts in Canadian chemical processing.

However, at the public hearing it was indicated that this nomenclature identified the "area of interest to Uniroyal", and that the company did not object to free entry for other "not made" catalysts. As an alternative to the above nomenclature, Uniroyal advocated the retention of item 93819-14 without the words "of a class or kind not made in Canada", and with the comparatively few Canadian-made catalysts being separately specified elsewhere in the Customs Tariff.

The Canadian Textiles Institute, whose members use catalysts in the production of man-made fibres and in the dyeing and finishing of yarns and fabrics, specified an interest in the maintenance of free entry for "not made" catalysts required for textile applications, while noting that considerations of technical complexity and the reluctance of manufacturers and users to divulge the exact composition of products made it difficult to compile a precise listing of relevant goods.

Van Waters & Rogers Ltd. of Weston, Ont., which imports under tariff item 93819-14 a number of catalysts of a bio-chemical nature, principally containing enzymes, sought retention of duty-free status for catalysts (especially enzymes) of a kind not made in Canada - in this regard, distinguishing between industrial enzymes, such as trypsin, which are not domestically manufactured and [presumably in an admixture of some kind] are admissible under Chapter 939, and enzymes for pharmaceutical or medical use, which may, in some instances, be produced in Canada [and are classifiable under Chapter 929]. As a possible alternative to the present tariff arrangement, the company suggested a duty-free provision such as the following:

Industrial chemical preparations acting as bio-chemical catalysts and used in Canadian manufactures, other than the following:
-(listing of "made" goods).

Cyanamid Canada Inc. of Willowdale, Ont., which manufactures hydro-treating catalysts, proposed the retention of a modified version of tariff item 93819-14. In this connection, Cyanamid's recommendation ruled out a combination of this item with item 86000-1, as proposed by Shell, insofar as

"there are some catalysts used in the refinery trade which are not classifiable under 93819 because they are single chemicals and would fall either under the 928 or 929 series". Cyanamid also advocated an eo nomine listing of "not made" goods, "especially since it would allow for other materials to be added, when necessary at subsequent times". Alternatively - and, presumably, as a second choice - Cyanamid proposed an eo nomine listing of "made" goods. The company also suggested replacing the wording of existing tariff item 93819-14 by the following:

The following materials, which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufacture:
- followed by an alphabetical eo nomine list of chemicals.

II. Item 86000-1

The essential features of proposals made in respect of tariff item 86000-1 generally replicated those reviewed above in connection with item 93819-14.

As already indicated, Shell Canada Limited proposed that tariff item 86000-1 should be eliminated and its provisions combined with those of tariff item 93819-14.

Imperial Oil Limited, prior to modifying its position, as already described, favoured a replacement item for 86000-1 worded as follows:

Materials for use only as catalysts in the refining of
petroleum

Free

Free

25 p.c.

with the exception of the following:

- Fluid bed silica - alumina cracking catalyst, composed of synthetic components (Silica Alumina) or clay and synthetic components (Silica Alumina).

- Hydrotreating catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and poly-aromatic saturation of petroleum feedstocks.

Rates of duty as per tariff item 93819-1 [i.e. 1987 MFN rate of 12.5 p.c.]

This wording was endorsed by Gulf Canada Limited, the Ontario Petroleum Association, May & Baker Canada Inc., and Cyanamid Canada Inc.

In the only other submission, M & T Chemicals Ltd. of Hamilton, Ont., a manufacturer and distributor of specialty chemicals, sought to retain the current status of tariff item 86000-1.

Conclusions and Recommendations

As a consequence of the MTN bindings, statutory status has been accorded to tariff items 86000-1 and 93819-14. It is, therefore, no longer necessary to describe the goods in these items in terms which would justify the existence of the items under section 273 of the Customs Act.

On the basis of the information provided by Emery Industries Limited, the Board accepts that "nickel based catalysts in a fatty ester carrier for use in the hydrogenation of vegetable, animal and mineral oils, and other fatty materials" (c.c. 429-22-30) are now of a class or kind not made in Canada. Thus, of the commodity classes listed in the staff appraisal with respect to both of the aforementioned tariff items,⁽¹⁾ only two part classes - viz: fluid bed silica-aluminum cracking catalysts (c.c. 429-22-70) and molybdenum-cobalt hydrotreating catalysts (c.c. 429-22-75) - remain with a "made" designation.

(1) Ibid., pp. 55-6, 68.

The Board finds merit in the suggestion that all mixed compound catalysts should be brought together in a single tariff provision under heading 93819 of Group XII of the Customs Tariff. By definition, the wording of this heading is already applicable to all goods of items 93819-5 and 93819-14. Such a joint provision as that proposed would not, however, apply to those catalysts for use in petroleum refining which, in the absence of tariff item 86000-1, became classifiable, not under heading 93819, but elsewhere in Schedule "A" of the Customs Tariff. One such group of products are the separate chemically-defined compounds of Chapters 928 and 929 of Group XII of Schedule "A", in which some parties have indicated an interest. Free entry for these can be provided by a relatively simple amendment to the Chemicals and Plastics Tariff Reduction Order.

An examination of the relevant import statistics reveals a number of products entering under item 86000-1 which, in the absence of that item, would be classified elsewhere than in Chapter 928 or 929 or under heading 93819. In general, the alternative classifications make provision for duty-free entry, the principal exception to this being provided in the case of activated clay (c.c. 429-15-30), which is otherwise classifiable under tariff item 93803-2 at a bound MFN rate, effective in 1987, of 12.5 p.c. However, inasmuch as activated clay is produced in Canada, it would appear that these goods were not properly admissible under tariff item 86000-1, unless they were of a form of activated clay sufficiently different from the Canadian product as to constitute a different "kind" of material. In the absence of any evidence to this effect, however, the Board thought to treat all activated clay falling under c.c. 429-15-20 as "made".

Consequently, the Board recommends:

1. The deletion of tariff items 86000-1, 93819-5 and 93819-14, and their replacement, under heading 93819 of Chapter XII of the Customs Tariff by the following:

Catalysts otherwise classifiable under tariff item 93819-1:

93819-40 Other than the following

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

93819-41 Fluid bed silica-alumina cracking catalysts for use in the refining of petroleum, composed of silica-alumina and synthetic components whether or not containing clay; catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and polyaromatic saturation of petroleum feedstocks, in hydrotreating service only

10 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.
---------	-----------	---------	--------	-----------

2. That section 8 (b) of the Chemicals and Plastics Tariff Reduction Order (P.C. 1981-2857, October 15, 1981), as reproduced in Revenue Canada, Departmental Memorandum D12-3-1 (March 7, 1983), be amended by the addition of the words: "or for use as catalysts in the refining of petroleum".

CHAPTER 5. ELECTRICAL GOODS, METAL
GOODS AND MISCELLANEOUS GOODS II

Introduction

The "electrical goods" provisions reviewed in the present context comprise six tariff items (including two part-items) governing the importation of operating room lights, glassware designed for use with lighting fixtures, carbons and metallic materials for use in the manufacture of batteries, and steatite ceramic parts for use in the manufacture of resistors. The "metal goods" provisions consist of a further six items covering respectively, ball and roller bearings, steel dies, silent chain and finished roller chain, commercial baking ovens, centrifugally-cast bronze shells or tubes for use in the manufacture of rolls for paper-making machinery, and rotor shaft forgings for use in the manufacture of electric motors and electric generators. The "miscellaneous goods" provisions consist of five tariff items (including one part-item and one drawback item) having reference to metallic materials for use in a wide range of manufacturing activities, prepared surgical sutures, ornamental or decorative marble for interior work in churches, and metal swivels and specially designed needles for use in repairing fish nets. Of the aforesaid 17 items, 12 contain the provision "of a class or kind not made in Canada", while a further item (31500-1) replicates this clause with the word "produced" substituted for "made". Three of the remaining four items (viz: 35235-1, 39225-1 and 44569-1) incorporate the clause "of types or sizes not made in Canada", or variations thereof, while item 30620-1 (applying to ornamental marble), employs the descriptive phrase "of colours and/or texture not produced in Canada".

The 17 tariff items under review attracted submissions from a total of 30 interested parties, seven of which presented briefs in respect of more than one of the items. Nine of the items elicited no show of interest, while only four attracted more than one submission. The main areas of concern were shown to be tariff item 42726-1 (pertaining to ball and roller bearings), with representations from 17 companies and industry groups, and tariff item 44205-1 (having reference to metallic materials for diverse uses), which attracted observations and/or proposals from 13 interested parties.

The interest evidenced in these latter two items was doubtless stimulated in large part by the substantial value of imports entering thereunder. Indeed, over four-fifths of the total value of imports admitted under the tariff provisions reviewed in this chapter (averaging \$353 million per annum in 1979-82) was attributable to tariff items 44205-1 and 42726-1.

Reflecting the general slowdown in economic activity in the early 1980's, imports under most of the pertinent items either declined or showed only moderate growth between 1981 and 1983.

Tariff Item 30620-1

Existing Tariff Provisions

Ornamental or decorative marble (not including chips), unicolour or variegated, of colours and/or texture not produced in Canada, rough, hammered, sawn, sand rubbed, chiselled or polished, with or without design thereon, when specially imported and used for interior work in churches

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

The coverage of the item is clear from its wording. It will be noted that in this case the made-in-Canada status of the pertinent goods depends upon their "colours and/or texture". To be excluded from the item, a product would have to be of both a colour and texture produced in Canada, or, of course, fail to meet the end-use qualification. Free entry under the MFN Tariff is bound under GATT.

When of a colour and texture produced in Canada, or in the absence of this item, the goods might fall under a number of tariff items depending upon the degree of manufacture:

<u>Goods</u>	<u>Tariff Item</u>	<u>MFN Bound Rate</u>
Marble, rough, not hammered or chiselled	30505-1	Free
Marble, sawn or sand rubbed, not polished	30515-1	4 p.c.
Marble, n.o.p.	30700-1	9 p.c.
Manufactures of marble, n.o.p.	30705-1	9 p.c.

Imports

Between 1974 and 1983, imports under tariff item 30620-1 were recorded in only two years. In 1978 imports were valued at \$10,000, while in 1980 they amounted to a mere \$683.

Submissions

No representations have been made with respect to tariff item 30620-1.

Conclusions and Recommendation

No information has been obtained which would permit the differentiation of the pertinent products into "made" and "not made" categories on the basis of the criteria indicated in the nomenclature of the tariff item. Only two commodity classes - viz: c.c. 740-39-20 ("furniture, church") and c.c. 961-89-19 ("marble end products nes") - were applied to goods imported under item 30620-1 between 1974 and 1981, and both of these classes appear to be of doubtful relevance.

In view of the complete absence of imports under this item in most recent years, and the probable misclassification of such goods as have been entered thereunder, there would seem to be little point in making special provision for the goods at issue. Deletion of the item would appear to provide the most appropriate tariff solution.

Accordingly, it is the Board's recommendation that tariff item 30620-1 be struck from Schedule "A" of the Customs Tariff and not be replaced.

Tariff Item 31500-1 Ex.

Existing Tariff Provisions

Carbons or carbon electrodes over three inches in circumference or outside measurement and not exceeding thirty-five inches in circumference or outside measurement; carbons of a class or kind not produced in Canada, when imported for use in the manufacture of dry batteries and dry cells

Free Free Free Free Free

Free entry under the MFN Tariff is bound under GATT. In Reference No. 157 the Board is concerned only with the underlined portion of the item, covering carbons of a class or kind not produced in Canada for use in the manufacture of dry batteries and dry cells.

When ruled to be of a class or kind made in Canada and excluded from the latter part of this item, carbons for use in the manufacture of dry batteries or dry cells, if held to be complete parts of electric batteries, would fall under item 44512-1, or item 44526-1, each with a MFN bound rate of 10.2 p.c. Otherwise they would, if of the appropriate dimensions, fall into the first part of referred item 31500-1. Carbons exceeding 35 inches in circumference or outside measurement would fall into item 31505-1, with a MFN bound rate of 15 p.c., while any other contact carbons would be admissible under tariff item 31600-1, with a MFN bound rate of 11.3 p.c.

Imports

The annual value of imports under tariff item 31500-1 as a whole averaged \$3.8 million in 1979-82, falling to \$2.0 million in 1983. From commodity class data it appears that goods entering under the referred part of this item accounted for at least \$0.7 million, or 27 per cent, of the 1982 total, and for \$0.3 million, or 17 per cent, of the 1983 total.

Submissions

Union Carbide Canada Limited, of Toronto, Ont., in the only submission pertaining to this item, requested a continuation of the existing duty-free provision.

Conclusions and Recommendation

There being no evidence of any domestic production of the pertinent goods, the Board concludes that the simplest tariff solution would be to retain the existing item, with the clause "of a class or kind not produced in Canada" deleted. Thus:

31500-1 Carbons or carbon electrodes over three inches in circumference or outside measurement and not exceeding thirty-five inches in circumference or outside measurement; carbons when imported for use in the manufacture of dry batteries and dry cells

Free	Free	Free	Free	Free
------	------	------	------	------

Tariff Items 32645-1 and 32669-1

Existing Tariff Provisions

These two items are linked in that they both relate to illuminating glassware designed for use with lighting fixtures or appliances.

I. Item 32645-1

Moulded illuminating shades, reflectors and refractors of glass, of a class or kind not made in Canada, designed for use with light fixtures or with portable lamps

1/1/84	Free	5.6 p.c.	32.5 p.c.	Free	Free
1/1/85		3.8 p.c.			
1/1/87		Free			

To qualify for entry under item 32645-1, the relevant articles - notably, illuminating shades, reflectors and refractors - must be of moulded glass and of a class or kind not made in Canada. Although they are required to be "designed" for use with light fixtures or with portable lamps, the admissible products do not have to be so used; consequently, this tariff provision does not accord with the strict definition of an end-use item. It should be further noted that the light fixtures and portable lamps for which the relevant goods are designed, do not necessarily have to be electrical, as in the case of the end-use appliances covered by tariff items 32646-1 and 32647-1 (see infra). Free entry under the MFN Tariff was bound in the MTN.

The goods covered by tariff item 32645-1, if it were deleted, or if they were ruled "made", would, in the absence of any more specific item, most probably fall under item 32607-1 as "illuminating, glassware, n.o.p.", with a MFN bound rate of 11.3 p.c. However, there are a number of other tariff provisions, reviewed below, which might apply in certain instances, depending upon the nature of the product, the stage of production, the type of production process, the intended end use, and/or the made-in-Canada status of the goods.

II. Item 32669-1

Reflectors and refractors of glass designed for use with lighting fixtures, not further manufactured than moulded, when of a class or kind not made in Canada and imported to be silvered, aluminized, acid-etched or combined with a spun aluminum cover in Canada

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

This was originally a temporary tariff item, first created, and then revised, in 1969, under the authority of section 273 of the Customs Act. It was made statutory with effect from June 3, 1980. Free entry under the MFN Tariff was bound in the MTN. In order to qualify for entry under the item, the relevant goods - notably, reflectors and refractors - must be of moulded glass and of a class or kind not made in Canada. They must be designed for use with electrical or other lighting fixtures, although not necessarily so

used, and they must be imported for further processing in one of the manners described in the item. In some senses, the item is a more restrictive version of referred item 32645-1 (supra), to which goods covered by item 32669-1 would revert if the latter item were to be deleted.

When ruled "made", or in the absence of this or any more specific provision such as that contained in item 32645-1, the goods covered by item 32669-1 would most probably be classified as "illuminating glassware, n.o.p." under tariff item 32607-1, with a MFN bound rate of 11.3 p.c. However, as with item 32645-1, there are a number of other tariff provisions which might, in certain instances, apply.

III. Related Items

Items 32645-1 and 32669-1 are only two of a number of tariff provisions pertaining to articles of glassware having possible applications in the lighting sphere. Other pertinent items include the following:

32603-1 Demijohns or carboys, bottles, flasks, phials, jars and balls, of glass, not cut, n.o.p.; lamp chimneys of glass, n.o.p.

1/1/84	14.6 p.c.	14.6 p.c.	32.5 p.c.	9.5 p.c.	14.6 p.c.
1/1/85	13.5 p.c.	13.5 p.c.		9.0 p.c.	13.5 p.c.
1/1/87	11.3 p.c.	11.3 p.c.		7.5 p.c.	11.3 p.c.

32607-1 Illuminating glassware, n.o.p.

1/1/84	10 p.c.	14.6 p.c.	32.5 p.c.	9.5 p.c.	11.3 p.c.
1/1/85		13.5 p.c.		9.0 p.c.	
1/1/87		11.3 p.c.		7.5 p.c.	

Illuminating shades, reflectors, refractors and shapes, of blown glass, for use in the manufacture of the goods enumerated in tariff item 44500-1:

32646-1 Other than the following

Free	7.5 p.c.	30 p.c.	Free	7.5 p.c.
------	----------	---------	------	----------

32647-1 Not further processed by the application of any material to the surface of the glass after it has been blown to shape

Free Free 30 p.c. Free Free

32651-1 Fresnel type lenses, sections and globes, of glass

Free Free 30 p.c. Free Free

32660-1 Articles of glass, not to include plate, sheet, machine-made tumblers nor containers for the bottling or packaging of products, when for use in the manufacture of cut or decorated glassware, under such regulations as the Minister may prescribe

Free Free 32.5 p.c. Free Free

44410-1 Lamp shades, n.o.p., and shade holders

1/1/84	14.6 p.c.	14.6 p.c.	30 p.c.	9.5 p.c.	14.6 p.c.
1/1/85	13.5 p.c.	13.5 p.c.		9.0 p.c.	13.5 p.c.
1/1/87	11.3 p.c.	11.3 p.c.		7.5 p.c.	11.3 p.c.

44500-1 Electric light fixtures and appliances, n.o.p., and complete parts thereof

1/1/84	14.6 p.c.	14.6 p.c.	30 p.c.	9.5 p.c.	14.6 p.c.
1/1/85	13.5 p.c.	13.5 p.c.		9.0 p.c.	13.5 p.c.
1/1/87	11.3 p.c.	11.3 p.c.		7.5 p.c.	11.3 p.c.

44503-1 Parts of electric light fixtures or appliances which would otherwise be classified under tariff item 44500-1, but not including electric cords, plugs, sockets, switches, connectors, ballasts or assemblies incorporating any of the foregoing

1/1/84	14.6 p.c.	14.6 p.c.	30 p.c.	9.5 p.c.	14.6 p.c.
1/1/85	13.5 p.c.	13.5 p.c.		9.0 p.c.	13.5 p.c.
1/1/87	11.3 p.c.	11.3 p.c.		7.5 p.c.	11.3 p.c.

Of these items, 32646-1 and 32647-1 (which make specific provision for certain of the end uses provided for in items 32645-1 and 32669-1) are both temporary Order-in-Council items. Item 32646-1 was originally introduced in June 1978, conceding duty-free status to articles of illuminating

glassware, in both decorated and undecorated forms, when for the uses indicated; effective July 1, 1981, in response to representations from Canadian glass decorators, the item was subdivided into new item 32646-1 and item 32647-1 in order to allow the application of duty to articles of decorated glassware. Both items have subsequently been renewed, and are currently scheduled to expire on June 30, 1985.

It will be noted that while the two referred items (32645-1 and 32669-1) state that the relevant goods should be of "moulded glass", the nomenclatures of items 32646-1 and 32647-1 specify "blown glass". Additionally, illuminating glassware may be "blow-moulded" (i.e. blown, rather than poured, into a mould); information supplied to the Board suggests that most of the blown glass used in the electrical industry in Canada is, in fact, of this type. Since articles of blow-moulded glass are not specifically provided for in the Canadian Customs Tariff, such goods have been variously - and, it would seem, somewhat arbitrarily - accommodated under alternative tariff provisions directed at articles of either "moulded" glass or of "blown" glass. Thus, there has been a degree of interchangeability in application between items 32645-1 and 32646-1 with respect to "not made" decorated glassware for use with lighting fixtures and between items 32669-1 and 32647-1 in regard to undecorated glassware for similar use. However, since item 32646-1 is a temporary dutiable tariff provision (carrying a MFN rate of duty of 7.5 p.c.), it cannot properly be applied to goods which might otherwise fall under statutory items at lesser rates of duty. An anomalous situation was, therefore, created at the beginning of 1984 when, as part of the phased rate reduction process, the MFN duty applicable under referred item 32645-1 was reduced below 7.5 p.c.

Referring more generally to the dutiable status of the various tariff provisions set out above, all the MFN rates except those attaching to the two temporary items have been bound under GATT. Broadly speaking, those items covering finished products or having general applicability have been bound at 11.3 p.c. (in 1987), while items pertaining to material inputs and/or having end-use connotations (other than temporary item 32646-1) have been set at Free.

Although the two temporary items are not themselves bound under GATT, goods classifiable to item 32647-1 would, in the absence of that provision, revert to item 32660-1 or to 32669-1, both bound at Free; while goods covered by item 32646-1 would either fall under referred item 32645-1 (articles of blow-moulded glass of a class or kind not made in Canada), with a bound rate of Free, or would revert to one of the items applicable to finished goods, most probably 32607-1 or 44500-1, both of which have a bound rate of 11.3 p.c.

Imports

The following figures indicate the value of imports entered under the two aforementioned referred items and their temporary counterparts during the five most recent years for which data are available.

<u>Item</u>	<u>Value of Imports (\$'000)</u>				
	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
32645-1	3,578	2,966	2,909	1,866	3,115
32646-1	7,834	8,344	6,395	2,622	4,544
32647-1	-	-	2,176	2,780	3,714
32669-1	268	269	265	91	122

While the values attaching to referred item 32645-1 have been considerable, they clearly represent a substantial decline from the peak of \$8.0 million recorded in 1976. At least part of this decline would seem to have been attributable to the reduction in scope of item 32645-1 since June 1978, when temporary tariff item 32646-1 came into effect, and since July 1981, when that item was replaced by new items 32646-1 and 32647-1. The use of these two temporary provisions was also doubtless partly at the expense of principal residual item 32607-1 (applying to "illuminating glassware n.o.p."), which has been little utilized in recent years.

Submissions

At the public hearing on Phase II, Group 3 of Reference No. 157, no representations were received respecting those tariff items (32645-1 and 32669-1) relating to illuminating glassware specifically referred to the

Board. Subsequently, Ejoyteurs Canada Limited, Chateauguay, Que., wrote to the Minister of Finance requesting the elimination of temporary tariff item 32646-1, (not referred to the Board) and the imposition (presumably under tariff item 32645-1, without a "not made" qualification), of a 15 p.c. duty on decorated lighting glass used in the lamp and lighting fixture industry. In his reply, the Minister of State, Department of Finance, pointed out that tariff item 32645-1 is included in Reference No. 157 and that the rate of duty is being reduced to Free under the MTN.

Under date of May 9, 1983, the Minister forwarded copies of the aforementioned correspondence to the Chairman of the Tariff Board and indicated that "it would be appreciated if the Board could look into" Ejoyteurs' concerns "in the context of its study" of tariff item 32645-1.

Subsequent inquiry, including evidence elicited at the staff appraisal hearing, revealed that Ejoyteurs' principal industrial activity is the decoration of glass globes for sale to domestic manufacturers of lamps and electrical fixtures. The Board was informed that the firm's decision to enter into this line of business was encouraged by the absence of any import duty on clear and opaline glass globes (admissible under tariff item 32660-1) and by the protection accorded to the decoration of such globes by the 15 p.c. MFN duty then applicable under referred item 32645-1.⁽¹⁾ However, consequent upon the introduction of temporary item 32646-1, on the one hand, and the impact of the latest series of tariff reductions on item 32645-1, on the other, the tariff protection conferred upon operations of the kind undertaken by Ejoyteurs has been whittled away. Hence, the burden of Ejoyteurs' plea is for a return to the tariff arrangements of former times.

Conclusions and Recommendations

In its review of tariff items 32645-1 and 32669-1, the Board has encountered unusual problems of identification with respect to the distinguishing characteristics of the items under study and of the goods to which

(1) At the same time, "illuminating glass, n.o.p." was subject to a MFN duty of 20 p.c. under tariff item 32607-1.

they apply. The high degree of substitutability between the two referred items and temporary items 32646-1 and 32647-1 respectively - notably, in regard to "not made" articles of blow-moulded glass and their end uses - has already been noted. Since, as the Board has been given to understand, a very high proportion of the imports entered under the four abovementioned items consists of articles of "blow-moulded" glass not specifically covered in the nomenclature of any of the items, there would seem little point in maintaining distinctions based on "moulded" glass and "blown" glass. Underlining the case for amalgamation is the anomalous situation respecting the MFN rate of duty applicable to "not made" decorated glassware under temporary tariff item 32646-1.

In addition to the Order-in-Council items, there are various other tariff provisions providing for similar or identical goods to those covered in the referred items, although the degree of duplication is impossible to determine without further extensive study, the more especially since the distinguishing characteristics of the goods named in the referred (and temporary) items have proved difficult to establish. Thus, referring to the wording of tariff items 32645-1, 32646-1 and 32647-1, the Board has been unable to determine in what ways "illuminating shades" differ from "refractors" or "shapes" (which would seem to cover an unlimited range of possibilities), while all three descriptions seemingly include "globes". Similarly, although all four of the abovementioned tariff items refer to "reflectors" and "refractors" of glass, it is possible to encounter a marked lack of consensus within the trade regarding the finer definitions of these categories of goods. It occurs to the Board that rather than perpetuate the shortcomings of existing terminology it would be preferable to use a collective term such as "illuminating glassware" in order to circumscribe the goods at issue.

The lack of precision regarding the definition of the goods falling within the scope of the referred items makes it difficult to provide definitive comment with respect to the made-in-Canada status of the relevant products. However, it would appear that the reflectors and refractors of tariff item 32669-1, however defined, are not made in Canada. Thus, one possible tariff solution, in this particular instance, would be to retain the

existing item without the clause "of a class or kind not made in Canada". However, this would seem to be unnecessary insofar as the goods encompassed by the item could conveniently be subsumed in tariff item 32645-1, which (as presently intended) will likewise make provision, in 1987, for duty-free entry under the MFN Tariff.⁽¹⁾

Regarding the made-in-Canada status of the goods referred to in the nomenclature of tariff item 32645-1, a staff appraisal designation of "not made" was attached to all the listed commodity classes except c.c. 681-93-30 applying to "shades, electric lighting fixture & lamps". These were categorized as "made". However, further investigation now suggests that all domestically-produced shades for the purposes indicated are manufactured from plastic, rather than from glass: a consideration which would exclude them from a tariff provision applying to "illuminating glassware" and most probably bring them under a dutiable item such as 44410-1, 44500-1 or 44503-1,⁽²⁾ at a (1987) MFN rate of 11.3.

In regard to the goods which are clearly of relevance to tariff item 32645-1, the Board, on the basis of its own further inquiry and the submission of Ejoyteurs Canada Limited, would now categorize decorated glass globes and spherical shapes designed for use with light fixtures and portable lamps, as "made". If excluded from a modified version of tariff item 32645-1, without the "not made" clause, these goods, in the absence of temporary item 32646-1, would most likely fall under tariff item 32607-1 ("illuminating glassware, n.o.p.") at a bound MFN duty rate of 11.3 p.c. At the same time, if temporary items 32646-1 and 32647-1 were to be retired, their goods, other than the aforesaid globes and spherical shapes, would fall under the replacement provisions for referred items 32645-1 and 32669-1 or under duty-free item 32660-1.

In the Board's view, a solution along these lines would make for a simpler and less obscure tariff arrangement than the anomalous set of provisions presently in effect. Domestic decorators of glass globes, such as

(1) See supra, pp. 85-6.

(2) For the provisions of these items, see supra, p. 88.

Ejoyteurs, would thereby be accorded an increased measure of tariff protection, although not to the 15 p.c. MFN level obtaining before the MTN, while assemblers of light fixtures would obtain increased freedom of access to other articles of illuminating glassware. The net effect should be an overall reduction in the amount of duty payable, since, on the basis of 1981-83 data,⁽¹⁾ approximately one-fifth of the goods entering under tariff item 32646-1 would consist of "globes",⁽²⁾ which would be subject to an increase in the MFN rate of duty from 7.5 p.c. to 11.3 p.c., while the remaining four-fifths of relevant imports would be admitted free of duty. In the case of tariff item 32645-1, a much smaller proportion (one-twentieth) of a smaller import total would exchange scheduled duty-free status in 1987 for a MFN rate of 11.3 p.c. Taking the two items together, the average weighted rate of duty in 1987 would thereby be reduced from 4.7 p.c. to 1.7 p.c.

Accordingly, the Board recommends the following changes with respect to the tariff provisions under review:

1. The deletion of existing tariff items 32645-1 and 32669-1.
2. The expiration and non-renewal of existing temporary tariff items 32646-1 and 32647-1.
3. The insertion in Schedule "A" of the Customs Tariff of the following item:

32645-1 Illuminating glassware, other than globes or spherical shapes decorated by the application of any material to the surface of the glass after it has been shaped, for use with light fixtures or with portable lamps

Free	Free	32.5 p.c.	Free	Free
------	------	-----------	------	------

(1) The total value of imports under tariff item 32646-1 during the three years 1981-83 amounted to \$13,561,000, of which \$2,848,000 was recorded against c.c. 681-91-20 ("globes, electric lighting fixture and lamp"). For tariff item 32645-1 the corresponding figures were \$7,890,000 and \$436,000 respectively.

(2) Falling under c.c. 681-91-20 ("globes, electric lighting fixture and lamp").

Tariff Item 35235-1

Existing Tariff Provisions

Centrifugally cast bronze shells or tubes not further manufactured than turned and bored longitudinally, of a size not made in Canada, for use in the manufacture of rolls for paper-making machinery

Free

Free

30 p.c.

Free

Free

This was originally a temporary item, first created, and then revised, in 1969, under the authority of section 273 of the Customs Act. It was made statutory with effect from June 3, 1980. The coverage of the item is clear from its wording. It will be noted that the made-in-Canada criterion in this case is "size" and not "class or kind". Free entry under the MFN Tariff rate was bound in the MTN.

When of a size made in Canada, or in the absence of this item, the relevant shells or tubes would be classified as "manufactures of brass or copper, n.o.p." under tariff item 35200-1, with a MFN bound rate of 10.2 p.c.

Imports

The annual value of goods imported under tariff item 35235-1 averaged \$0.5 million during 1978-80, dropping to \$43,000 in 1981 and \$5,000 in 1982. There were no imports under this item in 1983.

Submissions

No submissions have been received by the Board with respect to tariff item 35235-1.

Conclusions and Recommendation

No evidence of any domestic production of the aforementioned goods having been elicited, the Board recommends that the existing tariff item be retained without the qualifying clause "of a size not made in Canada". Thus:

35235-1 Centrifugally cast bronze shells or tubes not further manufactured than turned and bored longitudinally, for use in the manufacture of rolls for paper-making machinery

Free Free 30 p.c. Free Free

Tariff Item 39225-1

Existing Tariff Provisions

Rotor shaft forgings, rough machined, not less than 50,000 pounds in weight, of types or sizes not made in Canada, for use in the manufacture of electric motors and electric generators

Free Free 30 p.c. Free Free

This is a temporary tariff item originally created under the authority of section 273 of the Customs Act in 1975 and revised in 1977. It is currently scheduled to expire on June 30, 1985. The coverage of the item is apparent from its wording. It should be noted that the made-in-Canada criterion is "types or sizes" rather than "class or kind". While the MFN rate under the item itself is not bound under GATT, the goods covered by the item would be affected by the bindings applicable to the parent items (see below).

When of types or sizes made in Canada, or if tariff item 39225-1 should be allowed to expire, the relevant forgings - when weighing 25 tons but less than 40 tons - would fall under item 39205-1, which carries a MFN bound rate of 10.2 p.c., or - when weighing 40 tons or more - would be classifiable to item 39210-1, in which case a bound rate of 9.2 p.c. would be applicable.

Imports

There were no imports of goods recorded as entering under tariff item 39225-1 before 1980. Imports in that year were valued at \$354,000, subsequently dropping to \$99,000 in 1981 and to \$7,000 in 1982. There were no imports in 1983.

Submissions

No submissions have been received with respect to tariff item 39225-1.

Conclusions and Recommendation

On the basis of the information available to it, the Board concludes that the goods named in the aforementioned item are not made in Canada. However, in view of the insubstantial use made of this provision, and the absence of a bound rate under GATT, there would appear to be no adequate reason for prolonging the life of the item beyond its present expiry date.

Accordingly, the Board recommends that tariff item 39225-1 be allowed to expire.

Tariff Item 40700-1

Existing Tariff Provisions

Silent chain and finished roller chain, of iron or steel, and complete parts thereof, of a class or kind not made in Canada, n.o.p., either chain of the type which operates over or with gears or sprockets or radially grooved wheels with machine cut teeth

1/1/84	Free	11.4 p.c.	25 p.c.	Free	9.2 p.c.
1/1/85		10.7 p.c.			
1/1/87		9.2 p.c.			

This item provides for certain described types of chain of a class or kind not made in Canada as long as they are not more specifically covered in some end-use item. Complete parts of either type of chain, n.o.p., are also covered by the item as long as they themselves are of a class or kind not made in Canada. The MFN rate was bound at 9.2 p.c. in the MTN.

When ruled made in Canada, or in the absence of this item, the chains and their complete parts would generally fall into tariff item 40705-1, as "chains, of iron or steel, n.o.p., and complete parts thereof", with a MFN

bound rate of 10.2 p.c. As parts of machinery, however, the goods would be admissible under tariff item 42700-1 et al, at a bound rate of 9.2 p.c., but subject to duty remission when the machinery in question is not available from production in Canada.

Imports

The value of imports under item 40700-1 averaged \$17.3 million per annum in 1979-82, subsequently falling to \$12.3 million in 1983. Imports under the corresponding item for "made" goods (40705-1) were valued at \$11.2 million in the latter year.

Submissions

In a joint brief, a group of five steel producers - The Algoma Steel Corporation, Limited, Atlas Steels (A Division of Rio Algom Limited), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - speaking as purchasers and users of a variety of types of chain, indicated "some interest" in tariff item 40700-1. However, reflecting the narrow differential separating the rates of duty applicable to "made" chains (under item 40705-1) and "not made" chains respectively (amounting to 1 p.c. in 1987), the steel producers were of the opinion that "potential changes in dutiable status for goods identified under this tariff item are not sufficiently large to cause any major concerns". Accordingly, the group had no decided views to express on the issue of whether "made" goods, rather than "not made" goods, should be featured in an eo nomine listing. Additionally, the producers recognized that, in respect of chains imported as parts of machinery, insurance against "possible future eventualities" is now provided by the application of availability criteria under tariff item 42700-1.

Conclusions and Recommendations

According to information available to the Board, there is some Canadian production of the types of chain eligible for entry under the referred item, principally of pitch sizes 2 1/2 inches and over. Consequently, as none

of the relevant commodity classes has been given an "uncertain" made-in-Canada status, it would be a comparatively simple matter to list the "not made" products and allow the "made" goods to fall under related item 40705-1. However, since the 1987 MFN rate of duty bound under the latter item is only 1 p.c. more than the corresponding rate scheduled for application under item 40700-1, a neater tariff solution would be to amalgamate the nomenclature of these two items and the rates of duty thereunder.

Developing this possibility, a common MFN rate of 9.6 p.c. would seem appropriate, given the balance of imports under the two tariff items in recent years. The same rate of duty could also be applied under the BP and U.K. and Ireland Tariffs, while the consequential rate under the GP Tariff, using the accepted formula, would be 6.0 p.c. The average level of protection provided under the BP and GP Tariffs would thereby be increased somewhat, although this would seemingly be of small practical consequence. Between 85 and 95 per cent of all imports of the pertinent goods in the years 1980-83 came from the United States, Japan and the United Kingdom, with only minimal imports admitted under the British Preferential and General Preferential Tariff Schedules. So far as the nomenclature of a replacement provision for tariff items 40700-1 and 40705-1 is concerned, the Board is inclined towards the simpler, less restrictive wording of the latter item, as opposed to that of the former.

Thus, the Board recommends that tariff items 40700-1 and 40705-1 be deleted from Schedule "A" of the Customs Tariff, to be replaced by the following single item:

40700-1	Chains, of iron or steel, n.o.p., and complete parts thereof			
9.6 p.c.	9.6 p.c.	25 p.c.	6 p.c.	9.6 p.c.

Tariff Item 42726-1

Existing Tariff Provisions

Ball and roller bearings of a class or kind not made in
Canada, n.o.p.; parts thereof

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

This item constitutes one part of the residual provision in the Customs Tariff for ball or roller bearings; the other part is item 42729-1, as follows:

42729-1 Ball and roller bearings, n.o.p.; parts thereof

1/1/84	Free	11.4 p.c.	35 p.c.	Free	9.2 p.c.
1/1/85		10.7 p.c.			
1/1/87		9.2 p.c.			

Any bearings not classifiable elsewhere in the Customs Tariff fall under item 42726-1 if of a class or kind not made in Canada, or under item 42729-1 if the bearings are ruled to be "made" or if a "not made" ruling is not in effect. Item 42729-1 would attract all goods from item 42726-1 if the latter were to be deleted. It will be noted that insofar as these two items are concerned, the made-in-Canada status of parts has no bearing on their tariff classification, as the parts adopt the classification of their principal products.

In addition to the two residual items, there are several other tariff items which provide specifically for ball or roller bearings and/or their parts; these are as follows:

42723-1 Ball and roller bearings for the repair of agricultural implements and agricultural machinery specified in tariff items 40900-1, 40902-1, 40904-1, 40906-1, 40908-1, 40910-1, 40912-1, 40914-1, 40916-1, 40918-1, 40920-1, 40924-1, 40928-1, 40932-1, 40934-1, 40936-1, 40942-1, 40944-1, 40948-1, 40950-1, and the tractors provided for in tariff item 40938-1; parts thereof

Free	Free	Free	Free	Free
------	------	------	------	------

42730-1 Steel cages for use in the manufacture of tapered roller bearings

Free Free 35 p.c. Free Free

(Temporary item - scheduled expiry date June 30, 1985)

42780-1 ... tapered roller bearings, all for use in the manufacture of injection molding machines

Free Free 27.5 p.c. Free Free

(Temporary item - scheduled expiry date June 30, 1985)

Bearings, clutch release, with or without collar attached;
Bearings, graphite;
Bearings, steel or bronze backed, with non-ferrous metal lining, parts and materials therefor;
Bearings, steering knuckle thrust;
Bushings or sleeve bearings of bronze or powdered metal;
Bushings, graphited or oil impregnated; ...
Parts of all the foregoing;

All of the foregoing for use in the manufacture or repair of goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or for use in the manufacture of parts therefor:

43806-1(a) When of a class or kind not made in Canada

Free Free 30 p.c. Free Free

43807-1(a) When of a class or kind made in Canada

1/1/84	Free	9.7 p.c.	30 p.c.	Free	8 p.c.
1/1/85		9.1 p.c.			
1/1/87		8.0 p.c.			

43827-1 Double ball race turntables for use in the manufacture of self-steering axle assemblies for trailers

Free Free 30 p.c. Free Free

(Temporary item - scheduled expiry date June 30, 1985)

44200-1 Articles and materials which enter into the cost of manufacture of the goods enumerated in tariff items 40900-1, 40902-1, 40904-1, 40906-1, 40908-1, 40910-1, 40912-1, 40914-1, 40916-1, 40918-1, 40919-1, 40920-1, 40922-1, 40924-1, 40926-1, 40928-1, 40930-1, 40932-1, 40934-1, 40936-1, 40938-1, 40940-1, 40942-1, 40944-1, 40948-1, 40950-1, 40956-1, 42723-1, 43915-1 and 61810-1, when imported for use in the manufacture of the goods enumerated in the aforesaid tariff items, or in the manufacture of parts therefor, under such regulations as the Minister may prescribe

Free Free Free Free Free

(a)
44205-1 Materials, including all parts, wholly or in chief part of metal, of a class or kind not made in Canada, when imported for use in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42723-1, 42726-1, 42729-1, 42732-1, 42733-1, 42741-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, 44037-1, 44040-1 and 44705-1, under such regulations as the Minister may prescribe

Free Free 10 p.c. Free Free

44800-1 Steel balls and rollers for use only in ball or roller bearings

1/1/84	Free	6.3 p.c.	10 p.c.	Free	5.5 p.c.
1/1/85		6.0 p.c.			
1/1/87		5.5 p.c.			

(a) Item included for study in present inquiry.

It should be further noted that tariff item 43829-1, the residual item for motor vehicle parts, specifically excludes ball or roller bearings. Despite this, import statistics indicate that considerable quantities of both ball and roller bearings are being cleared under this item. The Board has no information as to the extent to which such entries are subsequently amended. The bound rate under item 43829-1 is the same as that under tariff item 42729-1 (supra), namely 9.2 p.c.

In addition to the foregoing, a number of other tariff items, some included in Reference 157, were applied in 1983 to entries covering substantial quantities of bearings or parts thereof. These included:

<u>Tariff Item</u>	<u>Qualifying Provision</u>	<u>MFN Bound Rate</u>
40938-1	Parts of tractors & accessories	Free
41006-1	Parts of dump trucks	9.2 p.c.
41011-1	Parts of mining equipment	9.2 p.c.
42700-1	Parts of machinery, n.o.p.	9.2 p.c.(b)
42700-6	Parts of specified machines	Free
42765-1(a)	Parts of parts of road graders	9.2 & 10.2 p.c.(c)
42817-1	Parts of small diesel engines	9.2 p.c.
43800-1	Parts of railway cars	17.5 p.c.
43821-1(a)	"Not made" repair parts for vehicles	Free
43868-1	OE parts for snowmobiles	9.2 p.c.(c)
44057-1	Parts of aircraft engines	Free
44059-1(a)	"Not made" parts of "not made" aircraft parts	Free
44603-1	Manufactures of iron or steel, n.o.p.	10.2 p.c.
95002-1	OE automobile parts (Autopact)	Free(c)
95006-1	OE vehicle parts (Autopact)	Free(c)

(a) Item included for study in present inquiry.

(b) Subject to remission under the Machinery Duty Remission Program.

(c) Present applied rate of Free.

Smaller quantities of bearings and/or parts of bearings were also admitted under a number of other tariff items, including the following (bound rates indicated in brackets): 35200-1 (10.2 p.c.), 40924-1 (Free), 41100-1 (Free), 41205-1 (Free), 42701-1 (9.2 p.c., subject to remission), 42815-1 (9.2 p.c.), 43896-1 (5.5 p.c. and 6.5 p.c.), 44025-1 (Free), 44053-1 (Free), 44516-1 (9.2 p.c.), 47900-1 (various), 49105-1 (9.2 p.c., effective rate - Free), and 84900-1 (Free). Of these items, 44025-1 and 49105-1 (covering, respectively, "not made" parts of diesel and semi-diesel engines for ships or vessels or other floating submersible structures, and "not made" parts of "all other" machinery and apparatus for oilfield development) were reviewed by the Board in Phase I of the present inquiry.⁽¹⁾

(1) Reference No. 157. Phase I, pp. 98-108, 166-76.

As with referred item 42726-1 and item 42729-1, the made-in-Canada status of parts of bearings has no relevance to their classification under referred items 42765-1 and 44025-1. However, in the cases of items 43806-1, 43807-1, 43821-1 and 44059-1 and 49105-1, the classification of parts would depend on their own "made" or "not made" status.

Imports

Average annual imports under tariff item 42726-1 amounted to \$76.6 million during the years 1978-80, rising to \$114.7 million in 1981. The latter figure was about treble the average for 1975-77. However, in 1982, doubtless due to the recession, imports under the item declined to \$91.2 million, dropping further to just below \$84.0 million in 1983. The latter figure represented over 41 per cent of total imports of bearings and bearing parts under all tariff provisions, with item 42729-1 (the residual provision for "made" goods), under which \$55.0 million of imports were entered, accounting for a further 26 per cent. In addition to these two tariff items, there were 12 others under which imports of bearings and/or bearing parts were valued in excess of \$1 million. Included among these were Autopact items 95002-1 and 95006-1 (combined relevant imports of \$20.6 million); referred item 44205-1, pertaining to "materials ... of metal" (\$13.2 million); item 44603-1, relating to manufactures of iron or steel, n.o.p. (\$5 million); item 42723-1, providing for agricultural bearings (\$4.4 million); and automotive items 43806-1 and 43807-1 (\$4.3 million).

Submissions

The Ball and Roller Bearings Manufacturer's Association of Canada (BARBMAC), on behalf of its members, who produce precision bearings in Canada, namely Canadian Timken Limited of St. Thomas, Ont., FAG Bearings Limited of Stratford, Ont., NTN Bearing Mfg Canada (a division of NTN Bearing Corporation of Canada Limited) of Mississauga, Ont., and Torrington Inc. of Bedford, Que., proposed the combination of tariff items 42726-1 and 42729-1 into a single item divided between an eo nomine listing of all precision bearings of a class or kind made in Canada and an "other than the following" provision for "not

made" goods. The association further suggested the elimination of the "n.o.p." from this item, so as to give it precedence over all items under which bearings are currently admissible as parts.

The proposed new tariff provisions would be worded as follows:

Ball and roller bearings; parts thereof:

42726-1 Other than the following

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

42726-2 (1) Single row radial ball bearings (not including maximum capacity, maximum type or cartridge type bearings), outside diameter up to and including 90.00 millimeters (3.5433 inches);

(2) Automobile front wheel double row angular contact ball bearings, outside diameter up to and including 76.00 millimeters (2.9921 inches);

(3) Miniature or small single row radial ball bearings (not including maximum capacity or maximum type bearings), outside diameter up to and including 12.7 millimeters (0.5 inches);

(4) Single row tapered roller bearings, outside diameter up to and including 168.2750 millimeters (6.625 inches);

(5) Cylindrical needle rollers having a diameter of up to and including 6.350 millimeters (0.250 inches) and having a length not less than three times the diameter;

Free	9.2 p.c.	35 p.c.	Free	9.2 p.c.
------	----------	---------	------	----------

As an alternative to the tariff proposal set out above, "for greater certainty in classification", the association suggested that 42729-1 should be retained as the number of the new item to be applied to "made" goods, instead of number 42726-2, as specified above. In any event, it was proposed that new bearing products manufactured in Canada should be added to the list of dutiable goods by means of tariff amendments. The notion of a single tariff item having a weighted average rate of duty was rejected by the association.

The submission by BARBMAC was later supplemented by information from the individual member companies with particular reference to areas of production interest.

SKF Canada Limited of Scarborough, Ont., the major producer of ball bearings in Canada prior to 1982, and now an importer and distributor of these products, adopted a different position from that put forward by BARBMAC. SKF favoured clarification and simplification of the existing tariff classification system with respect to bearings, with an eo nomine listing of those "relatively few types and sizes" of bearings presently made in Canada. It suggested that distinctions should be made in the tariff nomenclature between "rolling" (ball and roller) bearings and "plain" (bushings, rod-end) bearings, the latter bearings generally entering at present under tariff item 44603-1 ("manufactures ... of iron or steel ... n.o.p."). The company favoured eliminating any "n.o.p." qualifications from other related items and also end-use duty preferences administered through the Customs Tariff. The company advocated using the duty remission process, administered by the Department of Industry, Trade and Commerce (now Department of Regional Industrial Expansion), for conferring any concessions upon select economic groups (e.g. in the automotive, agricultural or mining sectors). In particular, it sought duty-free entry for those goods not conceded by the company to be made in Canada. As a second position, with respect to the rate of duties applicable to bearings, SKF suggested a weighted average tariff rate of up to 5 p.c., "so long as it would be applied equally and fairly across the spectrum of product".

The company summarized its proposal as follows:

		<u>MFN Tariff</u>
Rolling bearings and parts thereof		
42726-1	Except the following	Free (or up to 5 p.c.)
42726-2	Miniature rolling bearings up to 0.5" OD and parts	9.2 p.c.
42726-3	Water pump bearings and parts thereof	9.2 p.c.

MFN
Tariff

42726-4 Railway journal bearing assemblies and parts
 thereof

Free

42726-5 Plain bearings - ball bushings, rod-end, and
 parts thereof

10.2 p.c.
(or weighted
average rate)

Hayes-Dana Inc., Drive Train Division, Thorold, Ontario, manufactures universal joint bearing assemblies which are parts of universal joints for automotive use. The assemblies consist of a cup, a spacer, needle rollers, seals and a backing plate. Four such assemblies are then joined in a cross shaped section to form a universal joint. Hayes-Dana pointed out that in Customs Memorandum D51-18, dated April 10, 1979 (which has been withdrawn), universal joint bearing assemblies, described as universal joint needle roller bearings in sizes 25/32 nds of an inch up to 15/16 ths of an inch inclusive, inside diameter of the race, were considered to be roller bearings of a class or kind made in Canada. Hayes-Dana indicated that it now manufactures such bearings in sizes ranging between 0.6940 and 1.5232 inches inside diameter of the race and between 0.937 and 1.875 inches outside diameter of the race, inclusive, and that it would like this production interest to be recognized in an eo nomine description of made-in-Canada bearings.

Killian Manufacturing Limited, Toronto, Ont., submitted that it manufactures unground (non-precision) ball bearings, which can be described as: "bearings, ball, with unground ball raceways of machined metal, stamped metal, or plastic, up to 2.375 inches OD" /probably included in c.c. 504-05-89: "bearings, ball, unmounted, nes"/.

The Railway Association of Canada (RAC), representing all Canadian railways as well as those U.S. lines operating in Canada, being users of certain kinds of bearings and parts thereof, proposed maintaining duty-free entry for: (a) cylindrical roller bearings, double row, over 7.5" OD; (b) spherical roller bearings, double row, over 7.5" OD; and (c) taper roller bearings, multi row, over 7.5" OD. The association would provide for "made"

bearings in an eo nomine dutiable item, with free admission for all other bearings. It also suggested treating the entire bearing assembly of railway journal bearing assemblies as constituting a "bearing" for tariff purposes, pointing to "the present difficulty about backing rings, which have to be ordered separately or taken off and separately imported and, in any event, have duty separately paid". As an alternative, the RAC suggested that provision might be made for the establishment of a number of duty-free items based on specific eo nomine descriptions of "not made" goods, including one item directed at "railway journal bearing assemblies and parts thereof".

In an individual submission supplemental to its participation in the BARBMAC brief, Canadian Timken Limited urged that the establishment of a new duty-free item for "railway journal bearing assemblies and parts thereof" would change the tariff status of certain presently dutiable parts - notably, cone backing rings and axle end caps - which "are manufactured in Canada and are installed subsequent to the importation of the basic bearing assembly". The company further contended that for the Board to recommend the establishment of such an item would be to "ignore the other applications for the bearing and deny equal tariff treatment to those who use the bearings in other than railway rolling stock". However, the company spokesman conceded that, to the best of his knowledge, the railway journal bearings themselves "are no longer manufactured in Canada".

On the other hand, Excelsior Rolling Bearing Services, Westfield, New Jersey, U.S.A., a supplier of bearings to Canadian railroads, supported the brief of the Railway Association of Canada, indicating particular concern respecting the provision of duty-free access for the 12.5" OD outer race component of the railway roller bearing assembly used for GMDD (General Motors) diesel locomotives.

Air Canada, Dorval, Que., and Pratt & Whitney Aircraft of Canada Ltd., Longueuil, Que., both users of bearings, in separate but identical submissions, indicated support "in part" of the brief submitted by SKF Canada Limited, making reference to the "ambiguities" of the present tariff classification system, and expressing a preference for an eo nomine approach.

The two parties drew the Board's attention to Background No. 9, noting a lack of separate recognition in regard to bearings for use in aircraft. They claimed that "very few types and sizes of bearings are in fact manufactured in Canada", and that FAG Bearings Limited of Stratford, Ont., was "the only Transport Canada approved manufacturer of aircraft bearings to approved specifications in Canada", as of April 1982. They suggested the need for "a detailed review of the protective tariff as it exists today".

The Aerospace Industries Association of Canada (previously Air Industries Association of Canada), representing over 100 Canadian manufacturers, in a submission made in connection with the Board's hearings on tariff items covering goods used in the construction or equipment of aircraft and ships, contended that ball and roller bearings are no longer being manufactured in Canada in any commercial quantities, "so that the 'class or kind' qualification is no longer applicable". The association proposed that when for use in aircraft, bearings should be allowed duty-free entry, stating that this would require changes in the wording of items 42726-1 and 42729-1, in addition to the removal of the "class or kind" provision.

In a separate, but not unrelated, submission, the Canadian Transport Commission stated that the tariff action requested by the Air Transport Association of Canada⁽¹⁾ has safety implications for Canadian aviation.

Federal-Mogul Canada Limited, which imports "not made" bearings under tariff item 42726-1, and "made" bearings under tariff item 42729-1, indicated an interest in maintaining the duty free status of goods qualifying for entry under the former and, in this regard noted the inappropriateness of certain "made-in-Canada" rulings consequent upon the discontinuance of domestic manufacturing operations by SKF Canada Limited. The company referred particularly to maximum capacity single row radial ball bearings and front wheel automotive single row ball bearings as being "not made", and it questioned the range of single row deep groove bearings over 0.5 inches OD claimed to be

(1) See infra, p. 167.

manufactured by FAG Bearings Ltd. Federal-Mogul stated its belief that such bearings having an outside diameter greater than 1.5748 inches are not made in Canada.

Fafnir Bearing, Division of Textron Limited, Rexdale, Ont., "as an importer of many years' standing", agreed that made in Canada miniature ball bearings should be limited to single row deep groove (not including maximum capacity, maximum type, or cartridge type) up to and including 12.7mm or .500 inches OD. Fafnir's recommendation, however, disagreed with Federal-Mogul's, inasmuch as Fafnir described made-in-Canada radial ball bearings as single row (not including maximum capacity, angular contact, extended inner ring or cartridge type) having a cylindrical outside diameter up to 90mm or 3.54433 inches.

A group of steel producers - The Algoma Steel Corporation Ltd., Atlas Steels (A Div. of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - speaking as users and purchasers of ball and roller bearings, expressed a general preference for "some form of eo nomine method", with provision for duty remission "where dutiable goods must be imported because they are not made or available in Canada".

The Department of Finance brought to the attention of the Board, representations for duty relief which it had received from La Compagnie Normand Limitée, St. Pascal (Kamouraska) Quebec, to wit, that a particular single row tapered roller bearing with extension cone rib and within the size range to 6.625 OD, for use in the manufacture of six-wheeled wagons could not be obtained in Canada.

Conclusions and Recommendations

In formulating its recommendations for ball and roller bearings, related goods and parts of all the foregoing, the Board has had to take into consideration a wide variety of proposals, and to resolve a number of questions arising out of them. The Board has also had to bear in mind the possible implications of its recommendations for all of the items referred to in the first section of this review.

The proposal that this opportunity be taken to simplify the existing provisions for these products has some appeal and undoubtedly merits consideration. However, any such drastic action would go far beyond the Board's present terms of reference and might well have inimical effects on some parties who, feeling sufficiently distanced from the inquiry, have not thought to participate therein. Consequently, except where compelling considerations dictate otherwise, the Board proposes to limit its recommendations to goods covered by the referred item 42726-1, and perforce, to those under item 42729-1, as well as any goods that may be attracted to these items as a result of changes recommended elsewhere in this reference. It is proposed that this should be accomplished by retaining an "n.o.p." provision with respect to the replacement items.

Turning to parts of the bearings of these two aforementioned items, the Board notes that, at present, these parts coming under the items are classified with the relevant bearings and not according to their own made-in-Canada status. While this may not always be the case with additional bearings, and parts thereof, attracted to the items, e.g., from the automotive schedule, the Board feels that the present preponderance of imports of bearings under items 42726-1 and 42729-1 justifies retaining the present relationships in those items. In this connection, note should be taken of the recommended retention of free entry for "not made" metallic parts and materials for use in the manufacture of goods falling under items 42726-1 and 42729-1.

Virtually all of the goods which are likely to be attracted to the ball or roller bearings items come from items in the automotive schedule which are currently applicable to repair parts or to OE parts for vehicles not covered by the Autopact or for vehicles manufactured by firms not qualifying to use the Autopact items. In many of these cases, however, any duty levied on OE parts is subsequently remitted. For the tariff items to be considered here, the Board is, in effect, recommending that in future they be limited to "not made" goods for repair purposes. Therefore, "made" bearings and their parts ("made" or "not made"), would henceforth be excluded from those items

unless admissible as "parts" of other goods listed therein, as would "not made" bearings, and their parts, for OE purposes. There will be consequential changes in the relationships between parts and bearings.

From the information available to the Board, it would appear that virtually all the bearings listed in the preamble to tariff items 43806-1 and 43807-1, and their parts, when imported for repair purposes, would continue to fall under recommended item 43806-1. Ball or roller bearings and parts thereof, for OE purposes, if not covered by the Autopact items, would revert to items 42726-1 and 42729-1.

Tariff items 43810-1 to 43816-1 cover universal joint ball assemblies, including cross-type assemblies such as are made in Canada by Hayes-Dana. The replacement item, therefore, would exclude cross-type assemblies. As these assemblies are, in effect, ball or roller bearings, they would revert to items 42726-1 and 42729-1, together with OE assemblies of any type, not qualifying for the Autopact items.

Insofar as tariff items 43819-1, 43820-1 and 43821-1 are concerned, the elimination of any provision for universal joints and parts thereof, would cause a number of bearing assemblies, bearings and parts to revert to items 42726-1 and 42729-1. Other proposed changes to these items could also affect the classification of certain bearings. The Board has concluded that it must make provision for those universal joint bearing assemblies excluded from its proposed automotive schedule, inasmuch as they are specifically excluded from the residual item in the automotive schedule.

Various suggestions were made to the Board as to how "classes or kinds" of bearings should be defined. Some of these were so restrictive in their intent as virtually to limit "made" status to imported goods of exactly the same structure, form and dimension as those produced in Canada. This would substitute the much narrower "type or size" concept for that of "class or kind". On the other hand, a broad definition, holding all bearings of a certain format to be "made" when only a few sizes are produced, would be unfair to Canadian users. Hitherto, these classes were defined in terms of

ranges of sizes; this still appears to be the most satisfactory method. When a specialized bearing falling within one of these ranges is required and cannot be obtained from a Canadian producer, duty relief might be effected, if warranted, by the Department of Finance, using section 273 of the Customs Act. Such would appear to be a possible solution for the problem raised by La Compagnie Normand Ltée, St. Pascal de Kamouraska, Que.

On the basis of information submitted by members of BARBMAC, the Board is prepared to consider the following goods as made in Canada: single row tapered roller bearings up to and including 6.625 inches OD (manufactured by Canadian Timken); single row radial ball bearings up to and including 3.5443 inches OD, but not including maximum capacity or maximum types, or cartridge types (FAG Bearings and NTN Bearing Mfg declaring a production interest therein); miniature, or small single row radial ball bearings up to and including 0.5 inch OD, not including maximum capacity or maximum types (FAG being a producer of the relevant goods); and, automobile front wheel double row angular contact ball bearings up to and including 2.9921 inches OD (also produced by FAG). These descriptions presumably include the certified aircraft bearings reported to be manufactured by the latter company. In addition, the Board considers as "made": bearings, ball, with unground ball raceways of machined metal, stamped metal, or plastic, up to 2.375 inches OD (produced by Killian Manufacturing Limited, Toronto, Ont.), and universal joint bearing assemblies, cross-shaped, with outside diameter of the race from 0.937 inch up to and including 1.8752 inches (manufactured by Hayes-Dana Inc., Drive Train Division, Thorold, Ont.).

On the other hand, it would appear that Torrington Inc., (the fourth member of BARBMAC), does not manufacture ball or roller bearings as such. It makes cylindrical needle rollers which are sold "as is", to be incorporated in various pieces of machinery as rolling elements. These rollers have a diameter of up to and including 0.250 inch OD, and a length of not less than three times the diameter. When for use in ball or roller bearings, such goods are classifiable under non-referred tariff item 44800-1. Otherwise, they appear to be admissible as "parts" of the goods in which they are to be used or failing this, as manufactures of iron or steel, n.o.p. The Board feels that it has insufficient information to recommend any change in this regard.

Railway journal bearing assemblies present a special case. It is understood that when imported as a unit, these are dutiable under tariff item 43800-1 at 17.5 p.c.; when separated from the mounting parts, the goods are admissible duty free under tariff item 42726-1, while the mounting parts, other than cap screws, are dutiable as above at 17.5 p.c. Cap screws would fall under item 43010-2, with a (1989-MFN) bound rate of 10.2 p.c., but an applicable rate, at present, of 14.8 p.c. In view of the urgent need for these assemblies for safety purposes, the Board is prepared to make special recommendations for them.

Consequently, the Board recommends the deletion of existing tariff items 42726-1 and 42729-1, and their replacement by the following:

Ball and roller bearings, n.o.p.; universal joint bearing assemblies, n.o.p.; parts of the foregoing, n.o.p.;

42726-1 Other than the following

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

42727-1 Automobile front wheel, double row, angular contact ball bearings, up to and including 76mm, outside diameter;
Automotive universal joint bearing assemblies, cross-type, from 23.7998mm up to and including 47.625mm, outside diameter of the race;
Ball bearings with unground raceways up to and including 60.325mm, outside diameter;
Miniature or small single row radial ball bearings (not including maximum capacity or maximum type bearings) up to and including 12.7mm, outside diameter;
Single row radial ball bearings (not including maximum capacity or maximum type, or cartridge type bearings) up to and including 90mm, outside diameter;
Single row tapered roller bearings up to and including 168.2750mm, outside diameter;
Parts of all the foregoing

Free	9.2 p.c.	35 p.c.	Free	9.2 p.c.
------	----------	---------	------	----------

42728-1 Railway journal bearing assemblies, whether or not ready for mounting in the condition as imported; parts of the foregoing, not to include locking plates, and caps, cap screw seal rings, backing rings or cap screws

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

Further, the Board recommends that reference in tariff item 44205-1 (infra), to tariff items 42726-1 and 42729-1 be amended to read "42726-1 and 42727-1".

Tariff Items 44205-1 and 97056-1

Existing Tariff Provisions

I. Referred Items

As tariff item 44205-1 and drawback item 97056-1 relate to the same goods, they are here reviewed together.

44205-1 Materials, including all parts, wholly or in chief part of metal, of a class or kind not made in Canada, when imported for use in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42723-1, 42726-1, 42729-1, 42732-1, 42733-1, 42741-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, 44037-1, 44040-1 and 44705-1, under such regulations as the Minister may prescribe

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

97056-1 Materials, including all parts, wholly or in chief part of metal, of a class or kind not made in Canada
When used in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42723-1, 42726-1, 42729-1, 42732-1, 42733-1, 42741-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, 44037-1, 44040-1 and 44705-1

Portion of duty payable as drawback: 100 p.c.

To qualify for treatment under either of these items, goods must be materials (defined as including all parts) wholly or in chief part of metal, of a class or kind not made in Canada, for use in the manufacture of any of the products covered by the (identical) lists of 19 cited tariff items. No ministerial regulations have been issued with reference specifically to tariff item 44205-1. With respect to this item, duty-free entry under the MFN Tariff was bound in the MTN, having been in effect - initially in relation to a

somewhat different range of principal goods and end uses per predecessor item 442d - since 1952. The drawback item (formerly tariff item 1056) was established two years later, in 1954.

Given the non-dutiable status of goods entering under tariff item 44205-1, there might appear to be little scope for the payment of drawback, except perhaps with respect to goods cleared under the General Tariff; however, in recent years, there have been no imports under item 44205-1 coming from countries whose products are subject to such treatment. Evidently, the drawback provision serves as a backup to the tariff item by providing a mechanism for the return of duties when the requirements for a refund claim cannot be met, perhaps after goods originally cleared under a dutiable item have changed hands in Canada before coming into the possession and use of an eligible manufacturer. In instances of difficulty in matching imported materials to a specific import entry or where documentation for a refund claim is otherwise inadequate, the drawback item offers an alternative method of recovering the duty.

II. Related Items

The 19 tariff items cited in the provisions of the referred items cover a broad range of goods and a variety of end uses, notably: machines, self-propelled trucks, stave saws etc., for use in the operation of logging, the sawing of lumber, or the manufacture of veneers and plywoods; ball and roller bearings for use in the repair of agricultural equipment, and ball and roller bearings, n.o.p.; machinery and apparatus for dairying purposes; boilers, turbines, and engines, n.o.p. (including diesel and semi-diesel engines and engines for use in commercial fishing boats); and cast iron rolls for use in rolling iron or steel or in manufacturing paper.

The precise wording of the relevant items is as follows:

41100-1 Machines for use in sawing lumber, up to but not including the operation of planing, and parts thereof, not including equipment for driving the machinery of the saw mill, when for use exclusively in saw mills;

Machines, and parts thereof, for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/84	9.7 p.c.	9.7 p.c.	20 p.c.	6 p.c.	9.7 p.c.
1/1/85	9.1 p.c.	9.1 p.c.			9.1 p.c.
1/1/87	8.0 p.c.	8.0 p.c.		5 p.c.	8.0 p.c.

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of remission granted under this provision.

41105-1 Self-propelled trucks, not including machines for felling, skidding, piling, loading, bunching or processing trees or logs, which have been modified for carrying a load; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/84	10.0 p.c.	10.4 p.c.	20 p.c.	Free	10.0 p.c.
1/1/85		10.0 p.c.			
1/1/87	9.2 p.c.	9.2 p.c.			9.2 p.c.

41105-2 Logging cars; captive balloons; blocks and tackle; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/84	9.7 p.c.	9.7 p.c.	20 p.c.	Free	9.7 p.c.
1/1/85	9.1 p.c.	9.1 p.c.			9.1 p.c.
1/1/87	8.0 p.c.	8.0 p.c.			8.0 p.c.

41105-3 Wire rope, not including wire rope to be used for guy ropes or in braking logs going down grade, for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/84	9.7 p.c.	9.7 p.c.	20 p.c.	6 p.c.	9.7 p.c.
1/1/85	9.1 p.c.	9.1 p.c.			9.1 p.c.
1/1/87	8.0 p.c.	8.0 p.c.		5 p.c.	8.0 p.c.

41110-1 Cylinder stave saws, wheel type stave jointers, crozing and champhering machinery, and complete parts thereof

1/1/84	9.7 p.c.	9.7 p.c.	20 p.c.	6 p.c.	9.7 p.c.
1/1/85	9.1 p.c.	9.1 p.c.			9.1 p.c.
1/1/87	8.0 p.c.	8.0 p.c.		5 p.c.	8.0 p.c.

42723-1 Ball and roller bearings for the repair of agricultural implements and agricultural machinery specified in tariff items 40900-1, 40902-1, 40904-1, 40906-1, 40908-1, 40910-1, 40912-1, 40914-1, 40916-1, 40918-1, 40920-1, 40924-1, 40928-1, 40932-1, 40934-1, 40936-1, 40942-1, 40944-1, 40948-1, 40950-1, and the tractors provided for in tariff item 40938-1; parts thereof

Free	Free	Free	Free	Free
------	------	------	------	------

42726-1 Ball and roller bearings of a class or kind not made in Canada, n.o.p.; parts thereof

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

42729-1 Ball and roller bearings, n.o.p.; parts thereof

1/1/84	Free	11.4 p.c.	35 p.c.	Free	9.2 p.c.
1/1/85		10.7 p.c.			
1/1/87		9.2 p.c.			

42732-1 Machinery and apparatus for dairying purposes, namely: power churns, power milk coolers, power ice cream mixers, power butter printers, power cream savers, power bottle sterilizers, power brine tanks, valveless or centrifugal milk pumps, sanitary milk and cream vats; none of the foregoing machinery to include motive power; parts of all the foregoing

1/1/84	Free	5.6 p.c.	35 p.c.	Free	Free
1/1/85		3.8 p.c.			
1/1/87		Free			

42733-1 Machinery for dairying purposes, namely: power fillers and cappers, power milk bottle washers, power milk can washers, ice-breaking machines; none of the foregoing machinery to include motive power; parts of all the foregoing

1/1/84	Free	2.8 p.c.	35 p.c.	Free	Free
1/1/85		1.9 p.c.			
1/1/87		Free			

42741-1 Machines for the manufacture of veneers and plywoods, viz.:
Veneer clippers; veneer clipper knife jointers; veneer glue spreaders; veneer jointers; veneer lathes; automatic veneer reelers with supporting trays and hoists; automatic veneer unreelers; veneer conveyors specially designed for use with automatic veneer reelers and unreelers; veneer taping machines; complete parts of all the foregoing

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

42805-1 Boilers and complete parts thereof, n.o.p.

1/1/84	13.4 p.c.	13.4 p.c.	30 p.c.	8.5 p.c.	13.4 p.c.
1/1/85	13.1 p.c.	13.1 p.c.			13.1 p.c.
1/1/87	12.5 p.c.	12.5 p.c.		8.0 p.c.	12.5 p.c.

42805-2 Engines and complete parts thereof, n.o.p.

1/1/84	11.4 p.c.	11.4 p.c.	30 p.c.	7.5 p.c.	11.4 p.c.
1/1/85	10.7 p.c.	10.7 p.c.		7.0 p.c.	10.7 p.c.
1/1/87	9.2 p.c.	9.2 p.c.		6.0 p.c.	9.2 p.c.

42805-3 Turbines, steam or gas, and complete parts thereof, n.o.p.

15 p.c.	15 p.c.	30 p.c.	10 p.c.	15 p.c.
---------	---------	---------	---------	---------

42815-1 Diesel and semi-diesel engines, of a class or kind made in Canada, and parts thereof, n.o.p.

1/1/84	Free	11.4 p.c.	30 p.c.	Free	11.4 p.c.
1/1/85		10.7 p.c.			10.7 p.c.
1/1/87		9.2 p.c.			9.2 p.c.

42816-1 Diesel and semi-diesel engines, of a class or kind not made in Canada, and parts thereof, n.o.p.

1/1/84	Free	11.4 p.c.	30 p.c.	Free	9.2 p.c.
1/1/85		10.7 p.c.			
1/1/87		9.2 p.c.			

42817-1 Diesel and semi-diesel engines of 500 horsepower or less, and complete parts thereof, n.o.p.

1/1/84	Free	11.4 p.c.	30 p.c.	Free	9.2 p.c.
1/1/85		10.7 p.c.			
1/1/87		9.2 p.c.			

44037-1 Engines and parts thereof, n.o.p., for use in boats used exclusively in commercial fishing operations under such regulations as the Minister may prescribe

Free Free 15 p.c. Free Free

44040-1 Materials and articles for the manufacture or repair of the engines provided for in item 44037-1

Free Free 15 p.c. Free Free

44705-1 Sand cast rolls and chilled cast iron rolls, for use exclusively in rolling iron or steel, or in manufacturing paper

Free Free Free Free Free

Imports

Tariff item 44205-1 is one of the more important items referred to the Board in terms of the value of imports. Average annual imports under the item amounted to \$153.3 million during the years 1978-80, increasing to \$218.2 million in 1981-82. In 1983, imports under the item were valued at \$254.2 million. On the basis of the commodity class breakdown, it appears that approximately four-fifths of the goods entering under tariff item 44205-1 can be categorized as "parts", with iron and steel products accounting for the great bulk of the remaining eligible materials.

With respect to drawback item 97056-1, figures supplied to the Board indicate that in the five fiscal years 1978/79 to 1982/83 the annual amount of drawback granted ranged between slightly over \$7,000 in 1980/81 and rather more than \$285,000 in 1982/83. Assuming the goods at issue to be dutiable at an average rate of 10 p.c., this would appear to indicate that the value of imports qualifying for the payment of drawback under this item in no year exceeded \$3 million and in some years was very considerably less than this amount. This conclusion would seem to accord with the comments made earlier⁽¹⁾ regarding the possible scope for duty drawback, given the existence of duty-free item 44205-1.

⁽¹⁾ Supra, p. 116.

Submissions

Submissions pertaining to tariff item 44205-1 were made with particular reference to three broad categories of goods - viz: steel pipes and tubing; parts for use in the manufacture of ball and roller bearings; and components for use in the manufacture of turbines.

With respect to the first of these categories, the Algoma Steel Corporation, Limited, of Sault Ste Marie, Ont., drew the Board's attention to its present and planned production of seamless tubular products - notably, casing, drill pipe and tubing (c.c. 448-44-50, 448-69-45, 448-69-55 and 448-69-65). The Board was informed that present production consists of products with an outside diameter (OD) of between 4 1/2" and 12 3/4" inclusive and a maximum wall thickness of 1.6". Expansion plans envisage a broadening of this product range to include 13 3/8" OD casing and the establishment of a new mill for the production of seamless tubular products ranging between 1.9" and 7.0" in outside diameter and (varying with the OD) between .125" and 1.250" in wall thickness. The company indicated particular concern regarding the dutiable status of drill pipe in the 2 3/8" to 6 5/8" OD range, presently allowed duty-free entry under tariff item 39910-1 ("drill pipe, for use in connection with natural gas or oil wells"). It was requested that goods covered by this description should be given "made" status and accorded entry under dutiable tariff item 39905-1 ("pipes or tubes of iron or steel, commonly known as 'oil-country goods' ...").

In the same broad product area, Stelco Inc. of Hamilton, Ont., indicated a production interest in several classes of goods - viz: steel forgings produced by the closed die method (c.c. 443-99-39); welded carbon steel pipes, 4.5" OD and under (c.c. 448-38-70); seamless, hot finished, carbon steel pressure pipes, 1" to 4 1/2" OD, .035" to .375" wall thickness (c.c. 448-44-50); seamless, cold finished, carbon steel boiler tubes or tubing, non-ultrasonic quality, 1 1/16" to 4" OD, .075" to .380" wall thickness (c.c. 448-49-55); seamless alloy - except stainless - steel pressure tubes or tubing (c.c. 448-69-65); and bent/welded pressure boiler tubes, or tubing (c.c. 501-49-71).

In addition to making individual representations respecting their own particular areas of production interest, both Stelco and Algoma participated with three other steel producers - viz: Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., and Sydney Steel Corporation - in making a joint submission to the Board. This contained observations on the made-in-Canada status of a range of commodity classes relating to steel products, including several of those referred to, above. On a more general level, the steel producers advocated that existing tariff item 44205-1 should be replaced by an eo nomine listing of either "made" or "not made" goods, "depending on the practicalities of individual situations", with the remaining goods to be accommodated in a n.o.p. basket item. Additionally, "to provide for possible future eventualities where dutiable goods must be imported because they are not made or available in Canada", it was proposed that some type of "safety net" should be included, perhaps in the form of an arrangement for duty remission in appropriate instances. Subsequently, apropos the staff appraisal hearing, Stelco departed from this position, indicating agreement with the more generally-expressed opinion that tariff item 44205-1 should be retained in its present wording, thereby providing duty-free access to goods "of a class or kind not made in Canada".

Retention of existing item 44205-1 was likewise favoured at the staff appraisal hearing by Foster Wheeler Limited of St. Catharines, Ont., which utilizes the tariff item for the duty-free importation of materials and parts for use in the manufacture of high pressure boilers. Prior to adopting this position, the company had argued that pertinent "not made" goods could enter free of duty under eo nomine listings regardless of end use; as a further possibility, it had conceded that, in appropriate circumstances, use could be made of an "availability approach" even though such an approach is "not favourable" to importers of "speciality items".

With respect to specific categories of goods, Foster Wheeler considered that the CITC seven-digit class description "tubes, power boiler, bent or fabricated" (c.c. 501-49-71) - also of interest to Stelco - is "very vague and inadequate", and covers goods for which it has "not made in Canada" Customs rulings. The company also supplied copies of "not made" rulings

covering goods falling within c.c. 448-49-55 and 448-69-65, in which Stelco and/or Algoma had indicated a production interest. Respecting c.c. 448-44-50, pertaining to seamless, hot finished, carbon steel pressure piping, Foster Wheeler submitted that this product in sizes of 4" to 12 3/4" OD is made in Canada with a maximum wall thickness of .500" only. The company also submitted a copy of a "not made" ruling with respect to goods falling within c.c. 448-69-89 ("pipes/tubes, alloy steel, except stainless steel, seamless, nes, new"), categorized as of "uncertain" made-in-Canada status in the staff appraisal.

In regard to the second of the broad categories of goods referred to above - viz: parts for use in the manufacture of ball and roller bearings - a submission was received from the Ball and Roller Bearing Manufacturers' Association of Canada (BARBMAC), representing Canadian Timken, Limited of St. Thomas, Ont., FAG Bearings Limited of Stratford, Ont., NTN Bearing Mfg Canada (a division of NTN Bearing Corporation of Canada Limited) of Mississauga, Ont., and Torrington Inc. of Bedford, Que. This advocated duty-free entry for "not made" materials and parts used in the manufacture of ball and roller bearings, and - an initial proposal for an eo nomine listing of certain specified "not made" materials and parts being withdrawn - retention of tariff item 44205-1 in its existing form.

In an individual submission, Canadian Timken Limited, which imports tubing for use in the manufacture of cones and cups for tapered roller bearings, requested the exclusion of mechanical seamless alloy steel tubing of roller bearing quality from the coverage of "made" goods encompassed by c.c. 448-69-45 ("tubing, mechanical, alloy steel, except stainless steel, seamless, new"), this being a commodity class in which Algoma Steel Corporation, Limited had declared a production interest. Timken claimed that all sizes of the bearing quality tubing which it uses have been ruled by Customs to be of a class or kind not made in Canada. Further, with respect to c.c. 504-19-89 ("bearings, roller, nes, parts of, nes"), rollers for use in the manufacture of tapered roller bearings have also been officially categorized as "not made". Regarding the same commodity class, Timken noted that steel cages for tapered roller bearings are presently classified under temporary tariff item

42730-1 which provides for duty-free entry under the MFN Tariff , and "as such, they are not relevant to tariff item 44205-1, and are outside the scope of Reference 157". However, in an earlier statement, the firm had indicated that should the Board be disposed towards an eo nomine listing of "not made" goods, as a replacement for existing item 44205-1, "then perhaps cages could be included".

In another individual submission, NTN Bearing Mfg Canada requested that any eo nomine solution evolved by the Board should provide for the duty-free entry of: "tubing of iron or steel, seamless; bearing wire, balls, rollers, cages; seals; shields, rings for ball bearings; when imported by manufacturers of precision bearings for use in the manufacture of precision bearings in their own factories".

In the same eventuality, FAG Bearings Limited, for its part, wanted the balls, cages or snap retainers, seals and snap rings for use in the manufacture of its ball bearings to be treated as "not made".

The remaining submissions received by the Board with respect to tariff item 44205-1 pertained to parts for use in the manufacture of turbines and engines. In a submission amplified and reformulated subsequent to the initial public hearing, Westinghouse Canada Inc. of Hamilton, Ont., which manufactures both steam and gas turbines, proposed a general revision of tariff provisions applying to turbines and parts thereof, including a modification of the nomenclature of tariff item 42805-3 (which now provides for "turbines, steam or gas, and complete parts thereof, n.o.p.") to allow the classification thereunder of all parts, whether "complete" or not. In this proposed reformulation, materials and parts for steam and gas turbines would be segregated from tariff item 44205-1; identified "not made" parts for use in the manufacture of turbines would be listed eo nomine; while the existing "class or kind" tariff arrangement with respect to materials, other than parts, would be maintained on account of the impracticalities of developing an eo nomine approach in regard to such goods.

More specifically, the following tariff provisions were proposed:

42805-3 Turbines, steam or gas and parts thereof n.o.p.

Other than the following:

15 p.c.	15 p.c.(a)	30 p.c.	10 p.c.	15 p.c.
---------	------------	---------	---------	---------

42805-4 The following parts when imported by a manufacturer, for use in the manufacture of gas turbines and/or steam turbines and/or sub-assemblies thereof:

- rough-machined rotor/shaft/spindle forgings, vertically heat treated and/or heat indication tested;
- rough-machined disc/wheel and torque tube forgings for gas turbines and/or subassemblies thereof;
- fluid film journal and thrust bearings;
- forgings and castings for rotating blades/buckets;
- blades/buckets larger than 8" for rotating elements of gas and steam turbines;
- castings for stationary blades/vanes/nozzles and/or multiples thereof;
- actuators, servomotors and governors;
- trip and throttle valves;
- sensing and trip devices for speed, temperature, pressure and vibration

Free	Free	Free	Free	Free
------	------	------	------	------

42805-5 Materials, wholly or in chief part of metal, of a class or kind not made in Canada, when imported by a manufacturer for use in the manufacture of gas and steam turbines

Free	Free	Free	Free	Free
------	------	------	------	------

(a) Concessionary rate of 9.2 p.c. conditional on eventual satisfactory coverage of government procurement code.

This proposal differs from an earlier one submitted by the company in that the nomenclature no longer makes reference to "not made" parts of turbines for "remanufacture or repair", as provided for in tariff item 44210-1.⁽¹⁾

In seeking to justify special tariff treatment for the goods of interest to it, Westinghouse reminded the Board that during the period 1978 to 1982, a total of \$276 million, or over 30 per cent of all imports of materials and parts under tariff item 44205-1, "were accounted for by steam and gas turbine commodities". The company observed that this total greatly exceeded the value of imports under many other end-use items. So far as imports for Westinghouse's own particular use are concerned, it may be inferred that these are encompassed by the commodity descriptions set out under proposed duty-free items 42805-4 and 42805-5, above.

On the production side, the company indicated disagreement with the provisional made-in-Canada status attached to certain of the commodity classes in the pertinent staff appraisal. Thus, Westinghouse claimed to make fully-machined rotors, blade diaphragms and spindle discs for a full range of steam turbines (c.c. 502-09-88), and like parts and shafts for gas turbines with ratings as low as 4,000 hp and - eventually - as high as 60,000 hp (c.c. 502-40-88). The company further claimed to be presently manufacturing fully-machined blades from bar stock up to 8" in length for both gas and steam turbines, and it anticipated that it would be in a position by the end of 1985 to machine all blades required in its turbine production. In view of the uncertainty then attaching to the manufacture of large steam turbines in Canada by Canadian General Electric Company Limited,⁽²⁾ Westinghouse questioned the "made" status accorded under c.c. 502-09-88 to fully-machined blade diaphragms for multi-stage steam turbines with ratings between 201,000 hp (150 mw) and 1,073,000 hp (800 mw). It also noted that c.c. 502-39-88 and

(1) Tariff item 44210-1 was reviewed by the Board in Phase I of the present inquiry (see Reference No. 157. Phase I, pp. 184-8).

(2) In the summer of 1983, Canadian General Electric Company Limited closed its turbine plant at Scarborough, Ont., "because of the very low level of demand for large steam turbines in Canada in the foreseeable future". However, the Board has been informed that the company "remains capable of producing such turbines and will bid on any orders which in fact develop".

502-99-68, listed in connection with item 44205-1 in the relevant staff appraisal,⁽¹⁾ do not relate to parts of gas or steam turbines and, therefore, should not be referenced under item 42805-3. In addition, the company noted a number of commodity classes of relevance to item 42805-3 which were not listed in the staff appraisal, while it also provided clarifying commentary with respect to certain other classes.

A markedly different basic position from that advanced by Westinghouse Canada Inc. was put forward by Cooper Energy Services Ltd. of Mississauga, Ont., whose main concerns respecting the disposition of tariff item 44205-1 were also related to the importation of parts for gas turbines. In pleading for the retention of the existing provisions of item 44205-1, Cooper Energy informed the Board that "there are literally hundreds" of individual part numbers specified in "made/not made" customs rulings issued to the company respecting goods encompassed by the item. Such part numbers could not be converted into generic eo nomine product descriptions, while the "listing of specific part numbers for specific models of products made by named Canadian manufacturers does not appear to be acceptable in the drafting of a tariff item - and even if it were would not provide for changing requirements".

The company could find little merit in the tariff proposals submitted by Westinghouse, which it considered "in some respects" to go beyond the terms of reference supplied to the Board. In Cooper's view, the proposed amendment of tariff item 42805-3 to provide for "parts", instead of "complete parts", would, in the absence of a manufacturing end-use proviso, "enlarge the scope of tariff item 42805-3 in an area unrelated to tariff item 44205-1". Moreover, as previously debated in connection with tariff item 44210-1 (pertaining to certain specified "not made" components for use in the repair or remanufacture of gas or steam turbine parts), the high degree of specificity which distinguishes turbine components clearly inhibits the development of meaningful listings of "made" and "not made" goods.⁽²⁾ Commenting on

(1) Staff Appraisal. Electrical Goods, Metal Goods and Miscellaneous Goods II, p. 70.

(2) Ibid.

Westinghouse's proposal for "materials", as distinct from "parts", Cooper observed that the proposed "item 42805-5 is no less a 'class or kind not made in Canada' item, under this designation than it would be by continuing in item 44205-1".

In the same broad area of production activity, Rolls Royce (Canada) Limited of Lachine, Que., whose assembly operations also depend heavily upon the use of imported components, argued in favour of the continued duty-free entry of "not made" parts for industrial gas turbines and for the retention of the present "made/not made" basis of customs administration.

These general themes were repeated in the submissions of Solar Turbines Canada Ltd., which uses mainly imported parts at its gas turbine assembly plant in Edmonton, Alta., and Canadian General Electric Company Limited (CGE) of Toronto, Ont., a past importer⁽¹⁾ of materials and components for use in the manufacture of large steam turbines in the 150 to 900 megawatt range. However, in view of the lack of substitutability of parts as between the different makes, models and sizes of gas turbine, Solar suggested that "type or size", rather than the broader concept of "class or kind", be used as the basis for tariff classification. Referring to the tariff proposal submitted by Westinghouse, the company noted a lack of size specifications in the product descriptions (contained in proposed item 42805-4) and questioned whether Westinghouse's current product capability includes the manufacture of parts for smaller turbines, especially those having applications under 8,000 horsepower.

For its part, Canadian General Electric, in proposing retention of the present wording of item 44205-1, noted that "it would be quite unrealistic and impracticable ... for the Board to attempt to list all of the specific articles and goods which presently fall within the scope of the item". Respecting specific goods, CGE indicated that it was not seeking protection for the fully-machined blade diaphragms manufactured by the company in Canada for use with certain of its multi-stage steam turbines, since "the mix of

(1) See supra, p. 126.

manufactured and imported diaphragms may vary as a function of the specific turbine requirements". Disregard of this production capability would imply a change in the "made" status accorded to these goods, under c.c. 502-09-88, in the relevant staff appraisal.⁽¹⁾ The company expressed the hope that the main tariff solution proposed by the Board should be consistent with the Board's recommendations pertaining to tariff item 44210-1,⁽²⁾ and it urged that the tariff treatment of parts imported for spares or for repair purposes should be comparable with that accorded to identical parts when imported for use as original equipment.⁽³⁾

Insofar as drawback item 97056-1 is concerned, little interest was evinced before the Board during the course of the enquiry. Both Solar Turbines Canada and Foster Wheeler Limited advocated retention of the provision, the former referring to the added "refund capability" which it afforded - notably in instances where goods imported for general purposes are sourced for one of the relevant preferred end uses - while the latter company commented favourably on the additional years allowed for the claiming of drawback compared with the two years permitted for the filing of claims under duty refund procedures. Solar Turbines, however, conceded that it was doubtful whether item 97056-1 was "being used very often". In response to a direct question, Westinghouse Canada Inc. indicated that it would not object to withdrawal of the item.

(1) Ibid.

(2) Tariff item 44210-1, which was reviewed by the Board in its report on Phase I of Reference No. 157, presently provides for the free entry of certain specified "not made" components when imported for use in the repair or remanufacture of gas or steam turbines and parts thereof. In its report, which was published subsequent to the group hearing on item 44205-1, the Board proposed retention of tariff item 44210-1, the clause "of a class or kind not made in Canada" being deleted (see Reference No. 157. Phase I, pp. 184-8).

(3) Gas and steam turbines parts for repair or replacement purposes are not presently entitled to entry under tariff item 44205-1, as the item provides only for "materials, including all parts ... when imported for use in the manufacture of goods ...".

Conclusions and Recommendations

In terms of product coverage, the two tariff items under review are among the most far-ranging in the Customs Tariff, providing preferential duty accommodation for all "not made" materials and parts of metallic composition used in a broad spectrum of manufacturing activities. However, while the value of imports under tariff item 44205-1 has been very considerable (ranging between \$162 million and \$254 million per annum in 1979-83), the item has not, perhaps, been utilized to the maximum possible extent; at the same time, comparatively little use has been made of drawback item 97056-1, the landed cost of goods qualifying for payments thereunder generally amounting to well under \$3 million per annum.

As noted earlier,⁽¹⁾ the usefulness of the drawback item has in large measure been negated by the existence of the duty-free avenue provided for the same body of goods by tariff item 44205-1; while, as part of the general movement towards trade liberalization in recent decades, the duty-free treatment accorded under tariff item 44205-1, itself, has now been - or shortly will be - replicated in a number of the tariff provisions referred to in its nomenclature.

In this regard, since the goods classified under such provisions no longer receive any special concessionary treatment by virtue of their inclusion in the coverage of tariff item 44205-1, they could now quite properly be excluded from its terms. This would result in the deletion of references to parts classifiable under tariff items 42723-1 ("ball and roller bearings for the repair of agricultural implements ..."), 42732-1 ("machinery and apparatus for dairying purposes ..."), 42733-1 ("machinery for dairying purposes ..."), 42741-1 ("machines for the manufacture of veneers and plywoods ...") and 44037-1 ("engines and parts thereof, n.o.p., for use in boats used exclusively in commercial fishing operations ..."). Similarly, inasmuch as the material inputs for the ball and roller bearings of tariff item 42723-1 are already provided with duty-free access under tariff item 44200-1 ("articles and

(1) Supra, pp. 116, 120.

materials which enter into the cost of manufacture of the goods enumerated in tariff items ... 42723-1 ..."), while the "materials and articles" for the manufacture or repair of the engines and parts of tariff item 44037-1 are likewise provided for, exclusively, in the nomenclature of tariff item 44040-1, there would appear to be no need to duplicate the coverage of these provisions relating to materials in the wording of item 44205-1. Furthermore, if the Board's recommendations respecting diesel engines, made in connection with Phase I of this inquiry⁽¹⁾ are adopted, references to tariff items 42816-1 and 42817-1 could also be removed from the nomenclature, since duty-free entry (except under the General Tariff) will be allowed under a reformulated version of the former item, while the latter item will cease to exist.

The existence of alternative tariff provisions may partly account for the lack of representations respecting the majority of commodity classes listed in the pertinent staff appraisal. The lack of definitive product listings in the nomenclature of the items, themselves, may also have contributed to this situation by hindering the identification of economic interest in particular instances.

Needless to say, the open-ended coverage of the two referred items poses significant problems with respect to the development of alternative tariff provisions based upon eo nomine listings of "made" and/or "not made" goods. The list of applicable commodity classes presented in the staff appraisal is extensive, but far from complete⁽²⁾. The review of the made-in-Canada status of many of the classes was perforce perfunctory, with an "uncertain" designation being attached to a majority of the relevant product categories. Some of the 'grey' areas cited in the staff appraisal have been clarified by the foregoing representations, while supplementary information placed before the Board has suggested Canadian production of goods, or of additional goods, under a substantial number of commodity classes previously

(1) Reference No. 157. Phase I, p. 176.

(2) Staff Appraisal, pp. 66-71.

designated as "uncertain" or "not made".⁽¹⁾ Further, as a result of its review of other referred tariff items, the Board has been able to obtain determinations of the made-in-Canada status of various other product categories designated as "uncertain" in the staff appraisal.

Even so, these additional pieces of information notwithstanding, the general picture remains obscure by virtue of the continued preponderance of "uncertain" classes of goods, the heavy weighting of open-ended n.e.s. ("not elsewhere specified") commodity descriptions among the remaining classes, the diversity of end uses provided for in the referred items (entailing the possibility of different "made/not made" determinations), and the conflicting nature of much of the testimony presented to the Board. Clearly, a tariff solution couched solely in terms of eo nomine product descriptions is out of the question.

However, with particular reference to the replacement of existing tariff item 44205-1, the Board has sought to develop a non-controversial listing of "not made" goods as a supplement to a modified version of the existing item. Thus, the following commodity classes, provisionally designated as "not made" in the staff appraisal, have been excluded from such a listing on the ground of their indefinite product coverage and/or in recognition of suggestions or pointers regarding the existence of "made" goods classifiable thereunder: c.c. 443-99-59 (steel forgings), 444-60-29 (carbon steel bars), 445-16-90 (alloy steel plates), 448-44-55 (carbon steel tubes), 501-49-64, 501-49-72 and 501-49-73 (soot blowers, drums and heads for power boilers), 501-49-79 (parts of power boilers other than burners), 502-29-10

(1) The former "uncertain" classes are: 443-25-29, 443-25-50, 443-59-89, 443-99-60, 444-27-10, 444-29-49, 444-90-90, 445-02-89, 445-03-89, 445-04-89, 445-18-50, 445-18-60, 445-31-90, 445-36-23, 445-36-79, 445-81-43, 445-85-45, 445-99-20, 448-29-59, 448-38-75, 448-49-59, 448-68-60, 448-68-65, 451-40-10, 454-99-30, 501-49-69, 501-49-89, 502-19-10, 502-39-88, 502-40-89, 502-99-18, 502-99-58, 503-13-30, 503-19-31, 504-09-10, 507-36-32, 507-36-89, 507-99-28, 571-57-10, 592-29-10 and 703-95-90. The former "not made" classes are: 443-99-59, 448-44-55, 501-49-64, 501-49-72, 501-49-73 (in part), and 703-44-90. For the commodity descriptions of these classes and for a listing of the reported domestic producers, see Appendix IV, infra, pp. 350-8.

(parts of gas engines), and 703-44-90 (fluid flow measuring/controlling instruments). On the other hand, primarily on the basis of the Board's made-in-Canada determinations in connection with its review of other referred items, the following goods, designated as "uncertain" in the staff appraisal, have been added to the "not made" listing: nickel chromium alloy sheets (c.c. 454-76-31), power transmission clutches over 46 cm (c.c. 504-99-42), diesel and semi-diesel locomotive engines of less than 700 bhp or more than 4,500 bhp, and parts thereof (c.c. 571-57-10 and 571-58-88), V-engine blocks for marine gasoline engines (c.c. 592-40-88), and parts of outboard motors (c.c. 592-55-10). Certain other changes to the parameters of existing "not made" classes have been made to accommodate differences of opinion among interested parties.

However, the Board is not prepared to propose any changes to the dutiable status of drill pipe, as requested by Algoma Steel Corporation, Limited,⁽¹⁾ as tariff item 39910-1, under which this product is currently accorded free entry, has not been referred to the Board for purpose of enquiry.

With respect to the nomenclature of the provisions presently under review, the Board sees no point in duplicating the duty-free treatment provided elsewhere in the Customs Tariff for certain of the goods at issue, and it would, therefore, reduce the scope of tariff item 44205-1 to eliminate such duplication.

For essentially the same reason, the Board feels that there is little to be gained by the continued existence of drawback item 97056-1. The provisions of this item are, in effect, a replication of those of tariff item 44205-1, while the item is seemingly of negligible interest to members of the business community.

Accordingly, the Board recommends:

1. Deletion of tariff item 44205-1 from Schedule "A" and of tariff item 97056-1 from Schedule "B" of the Customs Tariff.
2. Replacement of tariff item 44205-1 by the following provisions:

(1) See supra, p. 121.

Parts, wholly or in chief part of metal, when imported for use in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42726-1, 42729-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, and 44705-1, and all other materials, wholly or in chief part of metal, when imported for use in the manufacture of goods entitled to entry under these tariff items or under tariff items 42732-1, 42733-1 and 42741-1, under such regulations as the Minister may prescribe:

- 44205-1 Axles of planetary type for woodland log handling equipment;
Boiler tubes and tubing, seamless, of cold finished carbon steel, with an outside diameter of less than 11/16 inch or more than 4 inches, or of ultrasonic level of quality;
Carburetors and ignition systems for woodworking chain saws;
Clutches, double, over 18 inches, for power transmission;
Diesel engines having a continuous brake horsepower rating of less than 700 or more than 4,500, and semi-diesel engines;
Mechanical tubing, seamless, of alloy steel, except stainless steel, with an outside diameter of less than 3/16 inch or more than 7 inches, or of roller bearing quality;
Parts of ball or roller bearings, namely: balls, bearing wire, cages or snap retainers, seals, shields, snap rings;
Parts of gas turbines, steam turbines or sub-assemblies thereof, namely:
actuators, servomotors and governors;
blades and buckets larger than 8 inches for rotating elements;
castings for rotating blades and buckets;
castings for stationary blades, vanes and nozzles, or multiples thereof;
fluid film journal and thrust bearings;
forgings for rotating blades and buckets;
forgings, rough-machined, for discs, wheels and torque tubes;
forgings, rough-machined, for rotors, shafts and spindles, vertically heat treated and/or heat indication tested;
fully-machined blades, blade diaphragms, rotors, shafts and spindle discs for steam turbines with ratings of over 80,000 horsepower, or for gas turbines with ratings of less than 8,000 horsepower or more than 60,000 horsepower;
sensing and trip devices for speed, temperature, pressure and vibration;
trip and throttle valves;

Parts of outboard motors and stationary steam engines;
Plates of stainless steel, 3/16 inch and heavier, more than 72 inches in width;
Pressure pipes and piping and pressure tubes and tubing, seamless, of alloy steel, except stainless steel, with an outside diameter of less than 3/16 inch or more than 7 inches;
Pressure pipes and piping, seamless, of hot-finished carbon steel, with an outside diameter of less than 1 inch or more than 13 3/8 inches;
Pressure pipes and piping, welded, of carbon steel, with an outside diameter of less than 0.5 inch or more than 4.5 inches;
Sheets of nickel-chromium alloy;
Transmissions for log loaders of tractor type and for log skidders;
V-engine blocks for marine gasoline engines other than diesel and outboard;
Parts of all the foregoing

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

44205-2 Other, of a class or kind not made in Canada

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

In the event of the implementation of the Board's recommendations with respect to diesel and semi-diesel engines, already submitted to the Minister in connection with Phase I of this inquiry,⁽¹⁾ the reference to tariff items 42816-1 and 42817-1 in the nomenclature of the proposed new item 44205-1, above, would need to be deleted. Further, to accord with the Board's recommendations with respect to ball and roller bearings,⁽²⁾ the reference to "42729-1" in the listing of relevant tariff items would need to be changed to "42727-1".

Lastly, while the Board makes no formal recommendation in this regard, it is of the opinion that a customs interpretation based on "type or size" rather than "class or kind", might be more appropriate in the case of certain goods, such as parts of turbines, which have a highly specific relationship with their final products.

(1) See supra, p. 131.

(2) Supra, pp. 114-15.

Tariff Item 44305-1

Existing Tariff Provisions

Ovens, of a class or kind not made in Canada, for use in commercial bakeries; complete parts of the foregoing

1/1/84	Free	2.8 p.c.	30 p.c.	Free	Free
1/1/85		1.9 p.c.			
1/1/87		Free			

The coverage of the item is clear from its wording. It will be noted that complete parts of "not made" ovens are included in this item regardless of their own made-in-Canada status. Free entry under the MFN Tariff was bound in the MTN.

When of a class or kind made in Canada, or in the absence of this item, the ovens and complete parts thereof would be classified under tariff item 44300-1 ("apparatus, and parts thereof, for cooking ..."), with a MFN bound rate of 11.3 p.c.

Imports

The value of imports under tariff item 44305-1 averaged \$2.6 million in 1979-82. The same value was recorded in 1983.

Submissions

No representations have been made to the Board with respect to tariff item 44305-1.

Conclusions and Recommendation

Two relevant commodity classes were listed in the staff appraisal.⁽¹⁾ Although both of these classes were reported to the Board as being applicable to "made" goods, the significant value of imports under the

(1) Ibid., p. 79.

item suggests that there may be some pertinent sub-classes or kinds of goods which are not made in Canada. In the absence of information to the contrary, however, the Board accepts the made-in-Canada status of goods as indicated above.

Accordingly, it is the Board's recommendation that tariff item 44305-1 be deleted from Schedule "A" of the Customs Tariff, the relevant goods being allowed to fall under tariff item 44300-1.

Tariff Item 44569-1

Existing Tariff Provisions

Steatite ceramic parts, when of types or sizes not made in
Canada, for use in the manufacture of resistors

Free	Free	20 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, originally created in February 1971, under the authority of section 273 of the Customs Act, and now scheduled to expire on June 30, 1985, unless further renewed. The item provides for "not made" parts of a named ceramic material for use in the production of a specified product (resistors). The item differs from most of those under study in the present reference in that it defines "not made" goods in terms of "types or sizes" rather than "class or kind". While item 44569-1 is not itself bound under GATT, the goods covered thereby would be subject to the bindings applicable to the parent items (see below).

When made in Canada, or if the item should be deleted or allowed to lapse, the steatite ceramic parts would be covered by the parent items, namely 44518-1 (as complete parts of electric insulators) and 44533-1 (as parts of radio and television apparatus). Both of these items have a MFN bound rate of 9.2 p.c.

Imports

The value of imports under this item, which averaged \$254,000 per annum during the years 1979-82, amounted to \$226,000 in 1983.

Submissions

No submissions have been received in connection with the item under review.

Conclusions and Recommendation

Three commodity classes having relevance to tariff item 44569-1 were listed in the pertinent staff appraisal.⁽¹⁾ All of these classes were provisionally designated as not made in Canada. As indicated above, neither domestic manufacturers nor importers have approached the Board respecting this item.

It is, therefore, proposed that tariff item 44569-1 be retained in a modified form, the clause "when of types or sizes not made in Canada" being deleted. Thus:

44569-1 Steatite ceramic parts for use in the manufacture of resistors

Free	Free	20 p.c.	Free	Free
------	------	---------	------	------

Tariff Item 44643-1

Existing Tariff Provisions

Articles of iron, steel or nickel, or of which iron, steel or nickel are the component materials of chief value, of a class or kind not made in Canada, when imported by

⁽¹⁾ Ibid., p. 82.

manufacturers of electric storage batteries for use exclusively in the manufacture of such storage batteries, in their own factories

1/1/84	8.0 p.c.	8.0 p.c.	20 p.c.	5.0 p.c.	8.0 p.c.
1/1/85	7.6 p.c.	7.6 p.c.			7.6 p.c.
1/1/87	6.8 p.c.	6.8 p.c.		4.5 p.c.	6.8 p.c.

The coverage of the item is clear from its wording, both as to the goods covered (any article of which iron, steel or nickel is the component material of chief value, of a class or kind not made in Canada), the end use (the manufacture of electric storage batteries), and the importers (manufacturers of such batteries, for their own use). The MFN rate was bound at 6.8 p.c. in the MTN.

If ruled made in Canada, or in the absence of the item, articles considered to be "complete parts" of batteries would fall under item 44512-1 or 44526-1, dependent upon the size of the battery. Other articles would generally be classified according to the component material of chief value - if iron or steel, under item 44603-1, if nickel, under 71100-1. All the items cited in this paragraph have bound rates of 10.2 p.c.

Imports

The annual value of imports under tariff item 44643-1 has remained comparatively small, averaging \$634,000 during the years 1979-82, and totalling \$563,000 in 1983.

Submissions

No submissions have been received by the Board with respect to tariff item 44643-1.

Conclusions and Recommendation

The Board is not aware of any Canadian producers of the goods encompassed by tariff item 44643-1. Thus, the nomenclature of the item could be retained without the qualifying clause "of a class or kind not made in

Canada". However, the apparent lack of interest in this item, the comparatively low value of imports thereunder, and the narrow (3.4 p.c.) duty differential separating the MFN bound rates of duty applicable to the pertinent "made" and "not made" goods respectively, suggest that the item is no longer serving any very useful purpose.

Accordingly, it is the Board's recommendation that tariff item 44643-1 be deleted from Schedule "A" of the Customs Tariff and not be replaced.

Tariff Item 46400-1

Existing Tariff Provisions

Steel dies, of a class or kind not made in Canada, valued at not less than one thousand dollars each, for use exclusively in stamping metal sheets or metal plates

Such dies shall be exported from Canada under Customs supervision within three months from the date of import entry

Free	Free	Free	Free	Free
------	------	------	------	------

The coverage and other requirements of the item are clear from its wording. Free entry under the MFN Tariff was bound in the MTN.

When of a class or kind made in Canada, or in the absence of this item, the dies would principally fall into tariff item 42700-1, as attachments, accessories or tools for use with machines, with a MFN bound rate of 9.2 p.c. subject to the Machinery Duty Remission Program.

Imports

Tariff item 46400-1 has been little used, failing to register any imports in six of the years between 1967 and 1983. The value of goods imported under this item averaged approximately \$12,000 per annum in 1979-81. Imports in 1982, at \$57,000, were exceptionally high in relation to previous experience, but dropped again to zero in 1983.

Submissions

No representations have been made to the Board with respect to the aforementioned tariff item.

Conclusions and Recommendation

The only commodity class to be listed in the relevant staff appraisal⁽¹⁾ in connection with tariff item 46400-1 was accorded a "made" designation. In view of the lack of use of this item, and the failure to uncover any "not made" classes of pertinent products, the Board sees no sound reason for continuing to make special provision for the goods at issue.

It is, therefore, proposed that tariff item 46400-1 be deleted from Schedule "A" of the Customs Tariff and not be replaced.

Tariff Item 47605-1 Ex.

Existing Tariff Provisions

Operating room lights designed to minimize shadow, not including bulbs, of a class or kind not made in Canada; chairs and tables for surgical operating purposes; infant incubators; infant and patient medical-alert or identification devices including beads, tapes and ribbons of any material, cases therefor and equipment for their application; electrocardiographs, paper and sensitized film for use therein; unexposed instant film; apparatus for sterilizing purposes, including bedpan washer-sterilizers but not including washing nor laundry machines; parts of all the foregoing; electroencephalographic paper. All for the use of any public hospital, under such regulations as the Minister may prescribe

Free

Free

Free

Free

Free

(1) Ibid., p. 85.

The relevant provisions of the item are underlined. With the exception of bulbs, parts of "not made" goods are admissible under the item regardless of their own made-in-Canada status. The end-use limitation is set forth in the last clause. The Minister does not appear to have prescribed any relevant regulations, as provided for in the last sentence of the item. Although free entry continues to be accorded under this tariff item, the MFN rate was bound at 9.2 p.c. in the MTN.

When ruled made in Canada, or if the provision for operating room lights should be deleted from item 47605-1, such lights and complete parts thereof would fall under item 44500-1 with a MFN bound rate of 11.3 p.c. Other parts would be dutiable according to their own material or nature, frequently under items with MFN rates bound at 10.2 p.c.

Imports

The average annual value of goods imported under both the referred and non-referred provisions of tariff item 47605-1 in 1979-82 was \$7.1 million. In 1983, goods valued at \$10.1 million were imported under this item. The corresponding values for c.c. 681-99-23 ("fixtures, lighting, operating room") - the most pertinent commodity class - were \$59,000 and \$76,000 respectively.

Submissions

No submissions have been received by the Board with respect to tariff item 47605-1.

Conclusions and Recommendation

Although Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1, Appendix D indicates that operating room lights designed to minimize shadow are "of a class or kind made in Canada", it is understood that fibre optic operating room lights are still held to be "not made" and, therefore, admissible under tariff item 47605-1.

Accordingly, the Board recommends that a provision for "fibre optic operating room lights" be substituted for the present product description of the goods at issue, the words "of a class or kind not made in Canada" also being eliminated. Thus:

47605-1 Fibre optic operating room lights; chairs and tables for surgical operating purposes; infant incubators; infant and patient medical-alert or identification devices including beads, tapes and ribbons of any material, cases therefor and equipment for their application; electrocardiographs, paper and sensitized film for use therein; unexposed instant film; apparatus for sterilizing purposes, including bedpan washer-sterilizers but not including washing nor laundry machines; parts of all the foregoing; electroencephalographic paper. All for the use of any public hospital, under such regulations as the Minister may prescribe

Free Free Free Free Free

Tariff Item 47615-1

Existing Tariff Provisions

Prepared surgical sutures, of a class or kind not made in Canada

Free Free Free Free Free

The wording of this item is self-explanatory. Free entry under the MFN Tariff was bound in the MTN.

When of a class or kind made in Canada, or in the absence of the item, sutures would be classified according to their material or nature. Among the items believed to be applicable are the following:

<u>Goods</u>	<u>Tariff Item</u>	<u>MFN Bound Rate</u>
Sutures with needles, for hospitals (as surgical instruments)	47600-1	9.2 p.c.(a)
Sutures, catgut	71100-1	10.2 p.c.

<u>Goods</u>	<u>Tariff Item</u>	<u>MFN Bound Rate</u>
Sutures, silver or stainless steel	40121-2	8.0 p.c.
(as wire)	or 40122-1	10.2 p.c.
Sutures with steel needles, not	44603-1	10.2 p.c.
for hospitals	or 71100-1	10.2 p.c.

(a) The present applied rate under this item is Free.

While item 47600-1 is not restricted to hospitals, it is understood that sutures with needles are only considered to be "surgical instruments", and admissible under the item, when imported by hospitals. Parts and "materials and articles for use exclusively in the manufacture of the goods enumerated in tariff item 47600-1" may qualify for free entry under unbound item 47900-1.

Imports

The value of imports under item 47615-1 averaged \$9.2 million per annum during the years 1979-82, and amounted to \$11.8 million in 1983.

Submissions

Representations with respect to the disposition of the tariff item under review were made by two interested parties.

Cyanamid Canada Inc., Willowdale, Ont., which manufactures surgical sutures from imported materials at its Baie d'Urfe, Que., facility, commented upon the lack of any official definition of the words "prepared" and "surgical", as applying to sutures in the present context. This company favoured deletion of tariff item 47615-1 in its entirety and the specific naming of sutures in existing duty-free item 47600-1, as follows:

X-ray apparatus and X-ray film; microscopes, illuminating devices and stands for use therewith; the following surgical, dental, veterinary and diagnostic articles: sutures; instruments; sterilizers; cobalt-therapy units; anaesthesia, surgical suction and oxygen administering

apparatus including motive power and wall outlets but not piping systems. Parts of all the foregoing; electric light lamps designed for use with all the foregoing; portable cases and containers for all the foregoing.

By virtue of this tariff arrangement, Cyanamid sought to ensure that all components and materials used in the production of surgical sutures receive duty-free treatment, either under the proposed amended item 47600-1 or under item 47900-1, which provides duty-free entry for "materials and articles for use exclusively in the manufacture of the goods enumerated in tariff items 47600-1 ...".

Ethicon Sutures Ltd. of Peterborough, Ont., which uses imported materials in the manufacture of surgical sutures, was the second company to approach the Board with respect to this item. Ethicon indicated a preference for an expansion in the coverage of goods encompassed by tariff item 47615-1 to include, not only prepared surgical sutures, but also ligatures, stapling devices and ligaclip instruments for surgical, dental, veterinary and diagnostic use, together with any materials and articles used exclusively in the manufacture of such goods. It was advocated that the aforementioned goods be provided with duty-free entry irrespective of whether or not they are of classes or kinds made in Canada, it being further noted that certain of the articles proposed for inclusion under tariff item 47615-1 are already provided with duty-free access under items 47600-1 and 47900-1. The company favoured the introduction of a new item with the following nomenclature:

Prepared sutures, ligatures, stapling devices and ligaclip instruments for surgical, dental, veterinary and diagnostic uses, and materials and articles for use exclusively in the manufacture thereof.

In the event of a recommendation by the Board for retention of existing item 47615-1 (apart from the "not made in Canada" clause), Ethicon proposed that provision also be made for the item to be listed in item 47900-1, thereby ensuring the duty-free entry of necessary materials. Alternatively, as a further possibility, the company suggested making specific provision in an amended version of existing item 47615-1 for "components and materials used in the manufacture of sutures", it being opined that there is presently no domestic manufacture of the pertinent needles and other material inputs. In

supplementary representations made at the staff appraisal hearing, the company referred to the bound dutiable status of alternative tariff provisions, and expressed the hope that "nothing be done inadvertently" which would prevent the domestic industry "from being able to apply for tariff protection in the future, should such a course become necessary".

Conclusions and Recommendations

The Board concludes that sutures for surgical use are made in Canada. However, there appears to be some degree of uncertainty regarding the exact nature of the goods which may properly qualify for entry under tariff item 47615-1 and the criteria whereby these may be distinguished from goods classifiable under item 47600-1 and other related provisions. A review of the pertinent commodity class data, supported by the testimony of interested parties, point to the significant application of item 47615-1 for the entry of materials and components for use in the manufacture of sutures, which goods should seemingly be classified elsewhere according to their own material or nature. The continued duty-free entry of such materials and components, rather than protection against competing finished products, is seen as constituting the prime concern of Canadian suture manufacturers. However, it has also been represented that the preferred tariff solution should be potentially capable of providing protection against foreign-manufactured sutures at some future date, should this be deemed desirable.

In the Board's view, these various concerns could be appeased, simply and effectively, by adoption of the tariff proposal submitted by Cyanamid Canada Inc., whereby finished sutures would be named in tariff item 47600-1, and thus gain duty-free access under the prevailing MFN Tariff but also be subject to a bound rate of 9.2 p.c., while, by virtue of their inclusion under this item, the necessary "materials and articles" for use in the manufacture of sutures would qualify for free entry under tariff item 47900-1. By contrast, the principal tariff solution advanced by Ethicon Sutures Ltd. would significantly broaden the product coverage of the tariff item under review by extending duty-free entry thereunder to major material inputs, while leaving unresolved the issue of potential protection for the principal manufactured goods.

Accordingly, it is the Board's recommendation that tariff items 47600-1 and 47615-1 be deleted from Schedule "A" of the Customs Tariff and that item 47600-1 be replaced by the following:

47600-1 X-ray apparatus and X-ray films; microscopes, illuminating devices and stands for use therewith; the following surgical, dental, veterinary and diagnostic articles: sutures; instruments; sterilizers; cobalt-therapy units; anaesthesia, surgical suction and oxygen administering apparatus including motive power and wall outlets but not piping systems. Parts of all the foregoing; electric light lamps designed for use with all the foregoing; portable cases and containers for all the foregoing

Free Free Free Free Free

Tariff Item 68200-1 Ex.

Existing Tariff Provisions

Fish hooks, for deep-sea or lake fishing, not smaller in size than number 2.0;
Fishing nets and nettings of all kinds;
Lures, jiggers and artificial baits;
Metal panel devices for use in keeping nets open;
Metal swivels, of a class or kind not made in Canada;
Net and line floats of any material except wood;
Specially designed needles of a class or kind not made in Canada for use in repairing fish nets;
Threads, twines, marlines, fishing lines, rope and cordage, not exceeding one and one-half inches in circumference;
Spat collectors and collector holders;
All the foregoing for use in commercial fishing, or in the commercial harvesting of marine plants, under such regulations as the Minister may prescribe;
Carapace measures of any material

Free Free Free Free Free

The Board is concerned only with the underlined portions of the item, which are self-explanatory. There are no published relevant ministerial regulations. Free entry under the MFN Tariff is bound under GATT.

When of a class or kind made in Canada, or in the absence of this item, the metal swivels would fall under tariff item 44034-1, with a MFN bound rate of 10.2 p.c. The needles would fall under item 45110-1 (as "needles, of any material or kind, n.o.p."), with a MFN bound rate of 11.3 p.c.

Imports

The value of imports under both the referred and non-referred portions of item 68200-1 fell progressively from \$31.2 million in 1979 to \$14.8 million in 1982, subsequently rising to \$16.4 million in 1983. Separate figures with respect to the goods of concern to the Board are not available, although a review of pertinent commodity class data reveals an increase in the value of imports under c.c. 529-91-22 ("swivels, commercial fishing") from \$33,000 in 1979 to \$55,000 in 1983.

Submissions

Columbia Plastics Ltd. of Vancouver, B.C., notified the Board of its involvement in the manufacture of specially-designed needles for use in the repair of fish nets.

Conclusions and Recommendation

On the basis of the evidence available to it, the Board concludes that the metal swivels encompassed by tariff item 68200-1 are not made in Canada, while the specially-designed net needles are domestically produced. Thus, the provision relating to metal swivels could be retained, the clause "of a class or kind not made in Canada" being deleted. The provision pertaining to needles could be struck out, the goods being accommodated elsewhere in the Customs Tariff.

Accordingly, the Board recommends adoption of the following modified version of tariff item 68200-1:

68200-1 Fish hooks, for deep-sea or lake fishing, not smaller in size than number 2.0;
Fishing nets and nettings of all kinds;
Lures, jiggers and artificial baits;
Metal panel devices for use in keeping nets open;
Metal swivels;
Net and line floats of any material except wood;
Threads, twines, marlines, fishing lines, rope and cordage, not exceeding one and one-half inches in circumference;
Spat collectors and collector holders;
All the foregoing for use in commercial fishing, or in the commercial harvesting of marine plants, under such regulations as the Minister may prescribe;
Carapace measures of any material

Free

Free

Free

Free

Free

CHAPTER 6. MACHINERY, MATERIALS, PARTS AND
EQUIPMENT USED IN THE CONSTRUCTION OR EQUIPMENT OF AIRCRAFT AND SHIPS

Introduction

In this chapter, consideration is given to four tariff items, comprising two items from Schedule "A" of the Customs Tariff, applicable to goods at time of importation, and two from Schedule "B", respecting drawback of duties on goods already imported. Three of the items, including the two drawback items, relate to the aircraft industry, while the other item covers metallic manufactures used in the construction or equipment of ships, vessels or submersible structures.

Although only two Schedule "A" tariff items are involved, they are of considerable significance, accounting in recent years for total imports exceeding \$600 million annually. The aircraft item (44059-1) has generally accounted for about three-quarters of this total. Payments under the drawback items have also been quite substantial, amounting to approximately \$829,000 in fiscal year 1982/83. The value of imports on which these payments were based may be estimated at about \$6.5 million.

The two Schedule "A" tariff items are structurally quite different. The one relating to goods for ships (item 44022-1) covers any suitable metallic manufactures "of a class or kind not made in Canada". On the other hand, the aircraft item is limited to specific products, product categories, and their parts, of "types or sizes not made in Canada". Similarly, the drawback item (97053-1) covering equipment used by suppliers to the aircraft industry is limited to specified types of goods, mainly "of a class or kind not made in Canada", while the other drawback item (97071-1) encompasses all "not made" materials for the manufacture or repair of aircraft, aircraft-borne equipment, aircraft engines, or parts thereof.

Representations were received by the Board respecting all the items involved. Tariff item 44022-1, pertaining to goods for use in the construction or equipment of ships or vessels, elicited the greatest response, attracting 23 submissions on an individual or joint basis from a total of 29

interested firms and organizations. Ten submissions (including two from major associations) were received with respect to tariff item 44059-1, relating to aircraft parts, while three of the parties concerned also made representations regarding each of the two drawback items.

Tariff Item 44022-1

Existing Tariff Provisions

At the time this reference was instituted, following the completion of the MTN in 1979, tariff item 44022-1 provided for:

Manufactures of iron, brass or other metal, of a class or kind not made in Canada, for use exclusively in the construction or equipment of ships or vessels, under regulations prescribed by the Minister

Free Free Free Free Free

With effect from June 30, 1983, the item has been amended to:

Manufactures of iron, brass or other metal, of a class or kind not made in Canada, for use exclusively in the construction or equipment of the goods enumerated in tariff items 44000-1 to 44009-1 inclusive, under regulations prescribed by the Minister

Free Free Free Free Free

Items 44000-1 to 44009-1, which share a common heading, are worded as follows:

Ships, vessels, dredges, scows, yachts, boats and other water borne craft and floating, submersible or semi-submersible structures such as docks, caissons, pontoons, coffer dams, production platforms, drilling ships, drilling barges, drilling rigs, jack-up drilling platforms and other drilling platforms; combinations of all of the foregoing; all of the foregoing whether or not self-propelled, assembled or complete:

44000-1 Other than the following

- 44001-1 Drilling ships, drilling barges, drilling rigs, jack-up drilling platforms and other drilling platforms; combinations thereof
- 44002-1 Ships and other vessels, for use in the commercial fishing industry, exceeding 30.5 metres registered length
- 44003-1 Boats, open, including sail boats, skiffs and canoes; yachts and pleasure boats, not exceeding 9.2 metres in length overall
- 44005-1 Yachts and pleasure boats, exceeding 9.2 metres in length overall
- 44006-1 Life boats specially imported by societies to encourage the saving of human life
- 44009-1 Racing shells, when imported by amateur rowing clubs for use exclusively by such clubs

The Governor in Council, on the recommendation of the Minister of Finance, may make regulations reducing or removing any customs duties imposed under this Act on goods imported under tariff items 44000-1 to 44009-1 inclusive in such circumstances and under such terms and conditions as are prescribed in the regulations.

Insofar as tariff item 44022-1 is concerned, the principal effect of the aforementioned development is to broaden the scope of the item to cover not only "not made" metallic manufactures used in the construction or equipment of ships or vessels, but also such manufactures used in the construction or equipment of other floating, submersible or semi-submersible structures, such as offshore drilling rigs.

Preferential treatment for metallic manufactures of a class or kind not made in Canada, for the equipment of ships or vessels, dates back to 1906. The broad range of goods covered is apparent from the wording. There do not appear to be any relevant regulations prescribed by the Minister. Free entry under the MFN Tariff was bound in the MTN, in the wording that then existed.

A few metallic manufactures for the goods of tariff items 44000-1 to 44009-1 are specifically provided for in other tariff items - viz:

		MFN
		<u>Bound Rate</u>
44012-1	Anchors, weighing less than 18 kg	9.2 p.c.
44013-1	Anchors, weighing 18 kg or over	Free
44019-1	Iron or steel masts, parts thereof	
	Iron or steel shapes (specified)	
	Cable chain	Free
44025-1	Diesel engines not made in Canada	Free
44028-1	Chronometers and compasses, parts thereof	Free
44037-1	Engines and parts thereof, n.o.p., for commercial fishing vessels	Free
44040-1	Materials and articles for goods of item 44037-1	Free

Apart from the foregoing, metallic manufactures for use exclusively in the construction or equipment of the relevant goods, when made in Canada, are classified elsewhere in the Customs Tariff according to their own material or nature. Many of these would fall under items providing for unspecified manufactures of the metal involved, usually with a bound rate of 10.2 p.c.

Tariff item 44022-1 was previously studied by the Board in Reference No. 149. Pleasure Craft. In its report, tabled in Parliament on April 29, 1976, the Board recommended, with respect to goods used in the manufacture of pleasure craft, that the item be expanded to cover articles of any material and that there be separate provisions for "made" and "not made" goods.⁽¹⁾ These recommendations have never been implemented.

All the information available to the Board with respect to tariff item 44022-1 is in terms of the scope of the item as it existed prior to June 30, 1983. In connection with the hearing on the staff appraisal, interested parties were invited to address themselves to the implications of the changes to the item, noted above. None chose to do so. Under these circumstances, the Board has no option but to limit its study to the goods entering under the item prior to June 30, 1983.

(1) Tariff Board, Reference No. 149. Pleasure Craft (1976), pp. 366-7, 377.

Imports

Until 1982, the annual value of imports under tariff item 44022-1 showed a steady upward trend. It averaged \$145.7 million in 1978-80, rising to \$178.3 million in 1981. The latter figure represented a doubling since 1976. However, in 1982, perhaps as a result of the recession, the value dropped to \$136.7 million, the lowest level in five years. Subsequently, in 1983, the value of imports under the item increased to \$167.2 million.

Submissions

The submissions on this item came almost entirely from manufacturers of pleasure craft and their suppliers. Generally speaking, they sought to retain free entry for "not made" metallic manufactures and to extend it to manufactures of other materials, particularly plastics.

Aqua-Marine Mfg. Limited of Toronto, Ont., a manufacturer of navigation lights and other goods used in the pleasure-craft industry, proposed an eo nomine listing of "made" goods, on which duty would be retained, with a duty-free n.o.p. ("not otherwise provided for") provision for "not made", "uncertain" and "unidentified" goods as well as for new products coming onto the market. The company also suggested that the "tariff interpretation of 'made in Canada' be replaced by the definition 'that the manufacturers seeking tariff protection shall be capable of producing 10 per cent of the domestic consumption'".

Outboard Marine Limited of Peterborough, Ont., manufacturers of outboard motors and boat accessories, indicated agreement with the Tariff Board's [unimplemented] recommendations contained in its report on Reference No. 149. Pleasure Craft for the preferential tariff treatment of "articles of any material" [as opposed to the "manufactures of iron, brass or other metal" of tariff item 44022-1] when imported for use as component parts in the construction or equipment of pleasure craft.

C & C Yachts Manufacturing Ltd. of Niagara-on-the Lake, Ont., "one of the largest yacht builders in North America", contended that "the pleasure craft industries are not shipbuilders" under the intent of tariff item 470 [the forerunner of item 44022-1], as envisaged in 1906. Consequently, separate tariff provisions should be created for the use of manufacturers of pleasure craft. The company suggested that these should take the form of an eo nomine listing of "made" goods, on which duty would be retained, with a duty-free n.o.p. ("not otherwise provided for") item for "not made", "uncertain" and "unidentified" goods as well as for new products coming onto the market. As recommended in Reference No. 149. Pleasure Craft, the latter item should provide for the preferential entry of "manufactures of any material", as opposed to "manufactures of iron, brass or other metal". This would permit the accommodation of new types of material for boat building (e.g. fibreglass) which have become commonplace since 1906. The company also suggested that a Canadian manufacturer should be required to demonstrate a 10 per cent "market share" in order for his product(s) to qualify for inclusion in an eo nomine listing of "made" goods. In response to the staff appraisal, C & C Yachts claimed that the made-in-Canada status of one- and two-burner alcohol marine stoves (c.c. 662-19-40) and navigation lights (c.c. 681-73-20), provisionally designated as "made", should be changed to "not made", at least so far as those suitable for use on yachts in excess of about 25 feet in length are concerned.

The British Canadian Trade Associates, a federally incorporated body whose principal interest is British-Canadian trade, making representations on behalf of Great Circle Trading Limited of Weston, Ont., importers and distributors of marine equipment for yachts and sailboats, favoured retention of the "made/not made" tariff arrangement and a broadening of the coverage of tariff item 44022-1 to include manufactures of any material. As an alternative to the present tariff arrangement it was suggested that eo nomine tariff provisions might be established covering products manufactured in Canada "which would protect the small domestic industries which are providing some portion of the equipment that is used".

Revol Agencies Ltd. of Newcastle, Ont., petitioning on behalf of a cross-section of boat builders, equipment distributors and others engaged in the servicing or selling of marine products, with particular reference to sailboats, requested duty-free entry for components and parts used in the construction or equipment of pleasure craft and an extension in the coverage of tariff item 44022-1 to encompass manufactures of materials other than iron, brass or other metals. The company also participated in a joint submission made subsequent to the group hearing by several interested concerns, and at the staff appraisal hearing supported the representations of C & C Yachts Manufacturing Ltd. concerning the lack of production in Canada of navigation lights and one- and two-burner stoves suitable for larger pleasure craft. With respect to navigation lights, Revol claimed that those produced by Aqua-Marine Mfg. Limited did not meet the international standards required for use in power boats or sailboats in excess of 8 metres (26.25 feet) in length.

With reference to the aforementioned joint submission, five members of the recreational marine industry - viz: Revol Agencies Ltd. of Newcastle, Ont., (marine manufacturer's representative), C.S. Yachts Limited of Brampton, Ont., (boat builder), Kitsmar Canada Limited of Vancouver, B.C. (marine distributor), Jeffcoatt Marine Limited of Toronto, Ont., (marine distributor and marine servicing depot), and L.F. Burgess & Associates of Oakville, Ont., (marine manufacturer's representative) - indicated a preference for an eo nomine listing of "made" goods with a n.o.p. ("not otherwise provided for") item for "not made", "uncertain" and unidentified goods as well as for new products coming onto the market. It was claimed that such a "transfer of the onus" from "not made" goods to "made and named" products would reduce the workload on, and improve the efficiency of, the customs administration, in that there now exist "some several thousand rulings from hundreds of suppliers under tariff item 44022-1" but "diligent search" had not revealed "more than twenty manufacturing firms" which meet required standards of quality and delivery.

The same general position, with an added dimension, was set forth in a joint submission made on behalf of a further nine members of the recreational marine industry - viz: Spencer Boats Ltd. of Richmond, B.C. (boat

builder), Findlay Imports Limited of Vancouver, B.C. (marine distributor), Intermann Marine Marketing Limited of Vancouver, B.C. (marine distributor), Whitby Boat Works Limited of Whitby, Ont., (boat builder), Rekord Marine Enterprises Limited of Vancouver, B.C. (marine distributor), Wright Mariner Supply Ltd. of Vancouver, B.C. (marine distributor), Mariner Distributors Inc. of Vancouver, B.C. (marine distributor), Cooper Yachts of Port Coquitlam, B.C. (boat builder), and Tanzer Industries Inc. of Dorion, Que., (boat builder). These businesses favoured an eo nomine listing of "made" goods, as indicated above, and the retention of the existing administrative criterion for "made" goods (i.e. 10 per cent or more of normal Canadian consumption) in determining eligibility of domestic products for tariff protection.

The above proposals were reiterated in an individual submission received from Kitsmar Canada Ltd.

In separate but identical submissions, Mariner Distributors Inc., Rekord Marine Enterprises Limited and Wright Mariner Supply Ltd. added a further proposition to the joint proposals set out above - viz: the extension of the coverage of tariff item 44022-1 to embrace "articles of any material" [as opposed to "manufactures of iron, brass or other metal"].

In an individual submission, Spencer Boats Ltd. noted that, in practice, existing arrangements for the reclamation of duties on imported materials entering into goods for export (notably, boats) work "only on items of significant magnitude in cost that ... can be specifically identified and traced through the paper system". While the company had no disagreement with the imposition of duty on goods of a class or kind manufactured in Canada "to provide a Canadian company with incentive to develop a product in the market place", it advocated that "a similar type of incentive should be considered or at least guarded for the end user in the manufacturing chain".

Pacific Spar Ltd. of Vancouver, B.C., yacht riggers and manufacturers of sailboat masts, advised the Board of its use of tariff item 44022-1 to import marine hardware from the United States, Australia and the United

Kingdom for incorporation into its products. The company claimed that the goods thus imported are not manufactured in Canada, and it requested that duty-free entry under the item should be retained.

Woodard and Company Ltd. of Toronto, Ont., a manufacturers' representative, warehouse agent and wholesaler trading in imported marine products, proposed elimination of the "class or kind" proviso, allowing all boat parts and accessories to enter Canada free of duty. Alternatively, as a second choice, it suggested an eo nomine listing of "made" goods, determined on the basis of detailed product specifications rather than by reference to general commodity class. The company also advocated that, in the event of an eo nomine approach being adopted, the criterion for "made" goods should be increased from 10 per cent of the domestic market to as much as 40 per cent; secondly, in determining which goods should be designated as "made", the customs administration should consult with boat builders and wholesalers to establish the extent of the market; and thirdly, for the aforementioned purpose, a committee should be set up composed of representatives of the customs administration and the private sector. In a subsequent supplementary communication to the Board, Revol Agencies Ltd. indicated its endorsement of Woodard's proposals regarding the determination of "made" goods, as set out above.

The Marine Trades Association of British Columbia, with over 100 member companies actively involved in the manufacture and distribution of marine and marine-related products, favoured an eo nomine listing of "made" goods, as best satisfying considerations of "equity, administrative convenience, long-run implementation cost, and industrial impact", together with the establishment of a series of industry advisory committees "charged with evaluating requests for protection from imports from Canadian producers of goods not specifically named at the inception of the new procedure".

Among other interested parties, Seaforth Fednav Limited of Halifax, N.S., "one of the largest Canadian shipping companies", submitted that the removal of the "class or kind made/not made" status of the item, without removal of the end-use provision, would not simplify Canadian Customs

clearance procedure because the existing requirement for end-use certificates "results in a very heavy non-productive paper burden which often overrides any savings in duty". It suggested that appropriate goods not available from Canadian manufacture, and unlikely to become so available in the future, should be specifically named in a duty-free non end-use tariff item. A listing of pertinent products for inclusion in such an item, was supplied by the company. If the foregoing should be deemed unacceptable, the principles governing duty-free entry as outlined in Departmental Memorandum D10-11-10 (July 1, 1982)⁽¹⁾ should be applied. Assuming implementation of the last proposal, the company advocated that registered goods should be approved and certified by the Canadian Coast Guard Design Approval Branch and at least one of the major marine classification societies (e.g. Lloyds, A.B.S., O.N.V.) before being recognized as suitable for marine application.

Litton Systems Canada Limited of Rexdale, Ont., which manufactures various shipboard systems for the world market using mostly imported parts and components, favoured a continuation of duty-free status for goods entitled to entry under item 44022-1 if such goods are not available from Canadian production, together with an eo nomine listing of relevant products.

Hammond Manufacturing Industries Limited, Guelph, Ont., advised the Board that it produced goods falling under a number of the relevant commodity classes and sought to retain such protection as it now enjoys.

Pyramid Transit Products Ltd., Pointe Claire, Que., provided copies of correspondence with Revenue Canada regarding its request for a "made" ruling on weld-in sidelights with a diameter of 300mm to 450mm (c.c. 681-73-20).

(1) This Memorandum outlines the provisions of tariff items 69605-1 and 69605-2, which permit the duty-free entry into Canada of certain goods not available from domestic production for use by specified organizations, primarily those established for educational or research purposes. Provision is made whereby Canadian manufacturers can register pertinent goods as being available from production in Canada, and thus not eligible for free entry under the aforesaid items.

Other observations with respect to the made-in-Canada status of a variety of goods were received from Reynolds Extrusion Company Limited of Richmond Hill, Ont., Allied Enterprises Limited and Joiner Systems JSC (1983) Canada Ltd., both of St. Laurent, Que., and the Fisheries Council of Canada. A summary of these observations will be found in the relevant staff appraisal.⁽¹⁾

Conclusions and Recommendation

On the basis of the information available to the Board, it appears that the larger part of the goods of relevance to tariff item 44022-1 are not produced in Canada. However, supplementary information obtained since the distribution of the staff appraisal has led to several additional classes or sub-classes of goods being designated as "made". These include the following product categories formerly regarded as "not made": c.c. 503-15-32 ("generator sets, diesel engine, ac, 251kw to 1,000kw" - 251kw to 499kw), c.c. 504-40-20 ("gear unit, single reduction, except spiral bevel"), c.c. 504-40-30 ("gear unit, double reduction, except spiral bevel"), c.c. 504-44-70 ("gear unit, power transmission, except reducer/increaser") and c.c. 592-99-30 ("boilers and turbines, marine" - residual "other" categories). On the basis of information provided by Pyramid Transit Products Ltd., the designation of weld-in sidelights having a diameter of 300mm - 450mm, falling into c.c. 681-73-20 ("fixtures, lighting, boat, incandescent") and formerly covered by an "uncertain" identity, are also categorized as "made". In addition, the further to accommodate the production claims of Hammond Manufacturing Industries Limited, the following product categories not originally listed, are now added to the list of pertinent goods, with a "made" determination: c.c. 639-30-88 ("power supply, electronic, parts of" - transformers, inductors, heat sinks), c.c. 683-79-31 ("reactors, power, under 500kva"), and c.c. 683-79-52 ("transformers, instrument"). On the other hand, in line with the abovementioned reservations expressed by C & C Yachts Manufacturing Ltd. and Revol Agencies Ltd., the "made" status previously accorded to navigation

(1) Staff Appraisal. Machinery, Materials, Parts and Equipment Used in the Construction or Equipment of Aircraft and Ships, pp. 38-9.

lights (c.c. 681-73-20: "fixtures, lighting, boat, incandescent") and one- and two-burner stoves (c.c. 662-19-40: "stoves, marine, alcohol") is now withdrawn with respect to such goods for use on vessels in excess of 8 metres (26.25 feet) in length. Further, in order to accommodate the representations of Pacific Spar Ltd., an additional sub-category of goods is created under c.c. 465-99-60 ("marine hardware"), listing "marine hardware for the manufacture of sailboat masts or for rigging yachts" as "not made".

However, in the overall context of tariff item 44022-1, these are very minor modifications; and the Board has perforce concluded that the broad coverage of the item makes it almost impossible to replace it with eo nomine listings, of either "made" or "not made" goods, due to the length of the lists involved. In addition, as the Board's investigations have been directed primarily towards commodity classes relevant to a "not made" item, it can have no assurance that all classes covering "made" goods have been identified.

Further, the change in coverage of the item, with effect from June 30, 1983, has brought within the ambit of its provisions a vast range of additional product classes applicable to the marine oil and natural gas industries. Many such categories of goods were identified and labelled as either "made" or "not made" in the study of tariff items included in Phase I of this inquiry.⁽¹⁾ However, for the purposes of the item now under review, these made-in-Canada determinations are insufficiently complete.

Under the circumstances, the Board feels that it has no alternative but to recommend the retention of a "not made in Canada" provision in connection with these goods. It is, however, possible to combine this with a specific list covering certain "not made" products, which would then be specifically listed for tariff purposes. Consequently, the Board recommends that tariff item 44022-1 be replaced with the following:

(1) See especially, Staff Appraisal. Machinery and Equipment for Use in the Exploration, Handling or Primary Processing of Natural Resources (December, 1981), pp. 24-5; Staff Appraisal. Machinery and Apparatus for Use in the Development of Resources of Oil, Natural Gas, Potash or Rock Salt (December, 1981), passim.

Manufactures of iron, brass or other metal for use exclusively in the construction or equipment of the goods enumerated in tariff items 44000-1 to 44009-1 inclusive, under regulations prescribed by the Minister:

44022-1	Clutches, power transmission, over 46 cm, double; Drives, jet, marine, combined with engines; Engine propulsion units, inboard-outboard; Lights, navigation, for vessels exceeding 8 m in length; Locks and bars for boat doors; Marine hardware for the manufacture of sailboat masts or for use in rigging yachts; Motors, hydraulic; Motors, outboard, V-6 or racing; Outboard parts of inboard-outboard vessels, not including engines; Power transmission equipment, hydraulic, including valves but not including actuators under 282.5 kNm of torque; Power transmission power take-offs; Propellers, marine, outboard or inboard-outboard, not over 23 cm in diameter; Pumps, bilge and water; Pumps, hydraulic; Pumps, power, rotary, twin-screw, with capacity in excess of 15 m ³ /m or 406.5 m of water at 40°C; Stoves, marine, alcohol, one- or two-burner, for vessels exceeding 8 m in length; Turbines, marine, gasoline; V-engine blocks for marine engines other than diesel or outboard; Parts of all the foregoing				
	Free	Free	Free	Free	Free
44022-2	Other, of a class or kind not made in Canada				
	Free	Free	Free	Free	Free

Moreover, it is further noted that if the "not made in Canada" proviso is retained, it would be possible to implement the Board's recommendation contained in its report on Reference No. 149. Pleasure Craft, and extend free entry to articles of any material. Because it goes well beyond the scope of the present reference, no such formal recommendation is made here.

Tariff Item 44059-1

Existing Tariff Provisions

Auxiliary power units;
Batteries;
Bolts, cocks, cotter pins, eyelets, nuts, pins, rivets,
screws, turnbuckles and clevis, washers;
Brakes, with related operating gear;
Carburettors;
De-icing and anti-icing equipment;
Direct or inertia starters with or without related operating
gear;
Distributors;
Electric generators;
Electric lamps;
Exhaust gas analyzers;
Fittings and couplings;
Forgings and castings;
Fuel pressure warning devices;
Hinges;
Hydraulic jacks;
Hydraulic pumps;
Ignition coils;
Instruments;
Landing and navigation lights;
Magnetos;
Oil coolers;
Pressure fire extinguishers;
Primer pumps;
Propellers and helicopter rotors;
Radio for navigation and air traffic communication;
Seats;
Shapes or sections, rolled, drawn or extruded, and bars,
rods, tubes, plate, sheet and strip, of any metal or
alloy thereof;
Spark plugs;
Swaged wires and tie rods;
Tires and tire inner tubes;
Vacuum pumps with related operating gear;
Voltage control boxes;
Wheels;
Parts of all the foregoing:

All of the foregoing when of types or sizes not made in
Canada and for use in aircraft, aircraft engines, airborne
aircraft equipment, or parts of aircraft, aircraft engines,
or airborne aircraft equipment

Free

Free

27.5 p.c.

Free

Free

It will be noted that in this instance, the made-in-Canada status of goods is based on "types or sizes" rather than "class or kind". In order to be classified as "made", products should be both "of a type" and "of a size" produced in Canada. It will further be noted that the "not made" qualification applies both to the goods named in the item and to their parts.

There are a number of GATT bindings relating to the item, all carrying a MFN rate of Free. Together, these bindings cover all the listed products, although not parts in every instance. Further, there are some differences in terminology, with the "electric generators", "ignition coils" and "tires and tire inner tubes" specified in the item being equated with "generators", "coils" and "tires and tubes" in the bindings. In relation to one group of goods - viz: carburettors, magnetos, distributors, coils and spark plugs, and complete parts thereof, "imported for use in aircraft engines" - the binding uses the term "of a class or kind not made in Canada", rather than the words "of types or sizes not made". Conceivably, a product admissible under the item as being of a "type or size not made in Canada" might be held to be "of a class or kind made", and thus not covered by the binding.

There is no binding under this item for parts - to the extent that such exist - of any of the following products:

- Bars, tubes, extrusions and forgings of aluminum, aluminum alloys and magnesium alloys;
- Batteries;
- Bolts, cocks, nuts, turnbuckles, clevis and pins;
- Exhaust gas analysers;
- Fuel pressure warning devices;
- Generators;
- Instruments except fuel content gauges;
- Landing and navigation lights;
- Oil coolers;
- Pressure fire extinguishers;
- Primer pumps;
- Propellers;
- Steel tubing;
- Swaged wires and tie rods;
- Tires and tubes;
- Voltage control boxes; and
- Wheels.

The coverage of tariff item 44059-1, and the end uses of the relevant products, are quite specific. However, it must be borne in mind that all goods otherwise classifiable under this item fall under item 44062-1 (see below) when imported "for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of civil aircraft or aircraft engines for use in civil aircraft".

When excluded from tariff item 44059-1 because they are of types and sizes made in Canada, those goods which are specifically named elsewhere in the Customs Tariff (batteries, electric generators, electric lamps, tires, etc.) would fall under the item in which they are named. Those not so named, if eligible, would be free of duty as "parts of aircraft, n.o.p.", or "parts of aircraft engines, n.o.p.", under items 44053-1 and 44057-1 respectively. Failing any of the foregoing classifications, the goods would be classified according to their material or nature, often as unspecified manufactures of the material involved. The Board lacks sufficient information to give the alternate classification for each specific product named in the item. Item 44059-1 is now principally applicable to goods for military aircraft.

With regard to civil aircraft, before proceeding to note alternate items, consideration must be given to the provisions of tariff item 44062-1, with free entry bound under the MFN Tariff. This item is worded:

44062-1 Hinges entitled to entry under tariff items 35200-1, 35400-1 and 36215-1;
Furniture entitled to entry under tariff items 35400-1, 44603-1, 61800-1 and 93907-1;
Castings entitled to entry under tariff items 35400-1 and 39000-1;
Forgings entitled to entry under tariff item 39200-1;
Sealed-beam lamps entitled to entry under tariff item 44504-1;
Microphones entitled to entry under tariff item 44536-1;
Magnesium castings entitled to entry under tariff item 71100-1;
Goods except parts, entitled to entry under tariff items 44028-1, 44300-1, 44514-1, 44538-1, 44540-1 and 46200-1;
Goods entitled to entry under tariff items 31200-1, 36800-1, 41417-1, 41417-2, 41505-1, 41505-2, 42400-1, 42405-1, 42700-1, 42701-1, 43005-1, 43300-1, 44053-1, 44057-1, 44059-1, 44500-1, 44502-1, 44516-1, 44524-1, 44532-1, 44533-1, 47100-1 and 61815-1.

All the foregoing when for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of the goods enumerated in tariff item 44060-1.

Tariff item 44060-1 referred to in item 44062-1, covers:
Civil aircraft; aircraft engines for use in civil aircraft.

Item 44062-1, in itself, covers all the goods of item 44059-1 when of types or sizes not made in Canada. In conjunction with items 44053-1 and 44057-1, the item also provides free entry for many of the goods when of types and sizes made in Canada. Some exceptions are: batteries; bolts, nuts, screws, rivets and washers of certain metals; parts of generators or transformers; forgings of metals other than iron or steel; castings of metal other than iron or steel or aluminum/aluminum alloys; and shapes, sections, bars, sheets, plates etc. of any metal, particularly of aluminum or aluminum alloys or of iron or steel. There are probably others.

The Budget Resolutions introduced into Parliament on February 15, 1984 contain proposed revisions to tariff item 44062-1, to come into effect on January 1, 1985. If these are approved,⁽¹⁾ batteries for civil aircraft will be admitted free of duty, regardless of their made-in-Canada status.

Imports

The annual value of goods imported under tariff item 44059-1 increased from \$149.1 million in 1976 to \$563.5 million in 1980, subsequently falling slightly to \$562.1 million in 1981. The latter figure far exceeded that recorded under any other referred item in this reference, and represented approximately one-third of the total value of imports under all Phase II items. It is worthy of note that while goods encompassed by literally hundreds of commodity classes were admitted under tariff item 44059-1 during the aforementioned years, c.c. 605-99-10 ("aircraft assemblies, equipment and parts nes") generally accounted for between two-fifths and one-half of all pertinent imports. In 1982 and 1983, imports under item 44059-1 were valued at \$463.7 million and \$435.8 million respectively.

(1) Approved December 20, 1984.

Submissions

The Air Transport Association of Canada, representing the domestic commercial civilian air carriers, submitted that, according to its perception, none of the goods at issue is made in Canada in the sense of being officially certified for use by Canadian manufacturers of the relevant aircraft. It, therefore, advocated retention of duty-free tariff item 44059-1 without the "types or sizes" qualification. Any goods available from approved domestic sources could simply be excluded from the reformulated item. In support of its position, ATAC referred to considerations of aircraft safety and production efficiency, free-trade provisions contained in the GATT Agreement on Civil Aircraft, international buying/marketing practices and the global division of labour with respect to the production of aircraft parts, non-substitutability/model specificity of much aircraft equipment, and the loss of international goodwill and risk of retaliation for any protective measures taken.

In a post-hearing communication, the Canadian Transport Commission indicated support for the position of the Air Transport Association of Canada because of the safety and cost implications.

In a separate submission made to the Board in connection with tariff item 42726-1 ("ball and roller bearings of a class or kind not made in Canada, n.o.p.; parts thereof"), Air Canada proposed the addition of "bearings" to the list of goods enumerated in item 44059-1, it being noted that, as of April, 1982, FAG Bearings Limited of Stratford, Ont., which sells the airline "a limited range of aircraft instrument bearings, ... is the only Transport Canada approved manufacturer of aircraft bearings to approved specifications in Canada". An identical submission to the above was made by Pratt & Whitney Aircraft of Canada Ltd. The Ball and Roller Bearing Manufacturers' Association of Canada opposed adding bearings to tariff item 44059-1, as suggested by the aforementioned parties.

The Aerospace Industries Association of Canada (formerly, the Air Industries Association of Canada), representing over 100 Canadian manufacturers (many of whom are heavily dependent upon exports), contended that ball

and roller bearings are no longer being manufactured in Canada in any commercial quantities, "so that the 'class or kind' qualification [applying to tariff item 42726-1] is no longer applicable". In the Association's opinion, bearings for use in aircraft should be allowed duty-free entry. To achieve this would require changes in the wording of items 42726-1 and 42729-1, in addition to the removal of the "class or kind" provision from item 42726-1.

In regard to tariff item 44059-1, the Aerospace Industries Association claimed that removal of the "types or sizes" qualification would not be detrimental to Canadian industry, it being noted that "the recent implementation of the Civil Aircraft Trade Agreement has resulted in duty free entry of virtually all civilian aircraft products". In the Association's view, a duty-free provision would be preferable to the use of remission orders (with respect to the reclamation of duty on imported parts and materials incorporated in goods for export) because of the reporting procedures required in connection with remissions.

Honeywell Limited of Scarborough, Ont., advocated that tariff item 44059-1 be retained, but without the "types or sizes" qualification. The company added that if an eo nomine or availability criterion is deemed necessary, it "should be taken into consideration" that the goods imported by Honeywell, which are listed in the Background Paper, "are unique to military aircraft and military specifications and ... are not available from production in Canada".

Litton Systems Canada Limited of Rexdale, Ont., which manufactures for the world market various airborne systems using mostly imported parts and components, favoured a continuation of duty-free status for goods entitled to entry under item 44059-1 if such goods are not available from Canadian production, and an eo nomine listing of relevant products.

Circo Craft Co. Inc. of Granby, Que., appeared to favour the reduction or elimination of duties on component parts of printed circuit boards so as to enable it to obtain, at lower cost, certain "state of the art" equipment and process materials.

Hammond Manufacturing Company Limited, Guelph, Ont., advised the Board that it produces goods falling under some of the commodity classes relevant to the item and sought to retain such protection as it now enjoys.

Conclusions and Recommendation

Comparatively little definitive information has been obtained by the Board respecting the made-in-Canada status of the bulk of the goods entering under tariff item 44059-1.⁽¹⁾ A few additional details were elicited as a result of the staff appraisal hearing. In the light of further information submitted by Hammond Manufacturing Company Limited, the designations of c.c. 639-23-20 ("transformers, electronic type") and c.c. 639-30-88 ("power supply, electronic, parts of" - transformers, inductors, heat sinks) have been changed from "uncertain" to "made". In addition, three other classes - viz: c.c. 683-79-31 ("reactors, power, under 500 kva"), c.c. 683-79-52 ("transformers, instrument") and c.c. 683-79-90 ("transformers, power, under 500 kva, nes") - are now identified, under "parts of all the foregoing", as "made".

Other information received by the Board points to some Canadian production of hinges classifiable to c.c. 465-53-30 and 465-53-90, both formerly categorized as of "uncertain" made-in-Canada status. Further, c.c. 503-69-20 ("servo motors, electric"), c.c. 503-69-29 ("synchro, nes") and c.c. 697-99-59 ("electromagnets nes, general purpose"), provisionally eliminated as being of doubtful relevance, have now been reinstated by the Board, with a "made" designation, under "parts of all the foregoing". On the other hand, while it has been possible to attach "not made" and "made" designations to c.c. 503-69-55 ("generators, direct current, 150 kw and over") and c.c. 730-69-63 ("generators, ground power units, aircraft") respectively, the relevance of these classes remains in question and they have accordingly been excluded from further consideration.

(1) Staff Appraisal. Machinery, Materials, Parts and Equipment Used in the Construction of Aircraft and Ships, pp. 49-53.

In the absence of any additional information, the Board concludes that any classes still listed as of "uncertain" made-in-Canada status must be considered as "not made" insofar as the goods are used for the purposes set forth in tariff item 44059-1.

Trade in parts for aircraft and aircraft engines is governed by many factors, of which tariffs are only one. Military aircraft are usually produced under Defence Production sharing arrangements, which are important considerations in determining the sources of components and materials used. Civil aircraft parts and materials are required to be certified as meeting rigid safety standards, which might well make an imported product a different "type" from a superficially similar domestic product.

The Board has classed certain products as "made" on the basis of the best information available to it; of the relevant goods, hinges, seat covers, electrical metal cabinetry, transformers, various power supply parts, and printed circuit boards would be admitted free of duty for use in civil aircraft under the provisions of tariff item 44062-1. For military aircraft, these goods, when of types or sizes made in Canada, would be dutiable, as apparently would all other relevant goods given a "made" designation by the Board. There may be other pertinent goods, not provided for in item 44062-1, which are also domestically produced in the requisite "types and sizes" of item 44059-1. However, in the absence of representations pertaining thereto from primary metal manufacturers, or from firms producing hardware, electrical goods or rubber products, such goods are considered by the Board, for the purposes of this item, as "not made in Canada".

Having weighed all these considerations, the Board, recognizing the merits of the arguments advanced in regard to the sourcing arrangements governing the production of military aircraft and the tendency to free trade in "approved" parts for civilian aircraft, is reluctant to recommend the imposition of duty on any of the goods falling under existing tariff item 44059-1, even though some Canadian manufacturers may thereby be deprived protection which they now enjoy. The Board further notes that the existing

wording of item 44059-1 (in line with that of item 44062-1) is broad enough to encompass the manufacture, repair, maintenance, rebuilding, conversion or modification of the goods in question, and suggests no change in this regard.

With respect to the request that specific products be added to the list of those presently encompassed by the item under review, the Board rejects this request as implying an extension in the scope of the reference. Bearings, which were the subject of representations by several parties, are fully considered elsewhere in this report.⁽¹⁾

Accordingly, it is the Board's recommendation that tariff item 44059-1 be retained, the clause "when of types or sizes not made in Canada" being deleted. Thus:

- Auxiliary power units;
- Batteries;
- Bolts, cocks, cotter pins, eyelets, nuts, pins, rivets, screws, turnbuckles and clevis, washers;
- Brakes, with related operating gear;
- Carburetors;
- De-icing and anti-icing equipment;
- Direct or inertia starters with or without related operating gear;
- Distributors;
- Electric generators;
- Electric lamps;
- Exhaust gas analyzers;
- Fittings and couplings;
- Forgings and castings;
- Fuel pressure warning devices;
- Hinges;
- Hydraulic jacks;
- Hydraulic pumps;
- Ignition coils;
- Instruments;
- Landing and navigation lights;
- Magnetos;
- Oil coolers;
- Pressure fire extinguishers;
- Primer pumps;
- Propellers and helicopter rotors;
- Radio for navigation and air traffic communication;

(1) Supra, pp. 100-15.

Seats;
Shapes or sections, rolled, drawn or extruded, and bars,
rods, tubes, plate, sheet and strip, of any metal or
alloy thereof;
Spark plugs;
Swaged wires and tie rods;
Tires and tire inner tubes;
Vacuum pumps with related operating gear;
Voltage control boxes;
Wheels;
Parts of all the foregoing;

All of the foregoing for use in aircraft, aircraft
engines, airborne aircraft equipment, or parts of aircraft,
aircraft engines, or airborne aircraft equipment

Free Free 27.5 p.c. Free Free

Tariff Item 97053-1

Existing Tariff Provisions

This drawback item relates to goods used in the production of aircraft, aircraft engines, airborne equipment, or parts of all the foregoing, as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Machinery; precision instruments and apparatus for heat treating, welding, sorting, testing, inspecting or correcting; control panels for use with the aforementioned machinery and precision instruments and apparatus; all of the foregoing of a class or kind not made in Canada; accessories and attachments for use with the aforementioned machinery and precision instruments and apparatus; parts of all the foregoing, not including consumable tools	When used for the manufacture of aircraft, aircraft engines, airborne aircraft equipment, or of parts of the foregoing

Portion of duty payable as drawback: 100 p.c.

As with all drawback items, there are four components of this item:

1. The item number;
2. The enumeration of goods on which drawback may be granted;
3. The circumstances under which the goods are subject to drawback; and
4. The rate of drawback.

In this particular item, components 1, 3 and 4 are straightforward. Component 2 lists the following goods as being subject to drawback:

- (a) machinery, of a class or kind not made in Canada;
- (b) precision instruments and precision apparatus, of a class or kind not made in Canada, for heat treating, welding, sorting, testing, inspecting or correcting;
- (c) control panels, of a class or kind not made in Canada, for use with the goods in (a) and (b);
- (d) accessories and attachments, regardless of their own made-in-Canada status, for use with the goods in (a) and (b); and
- (e) parts of the goods in (a), (b), (c) and (d), regardless of their own made-in-Canada status, but not including consumable tools.

Strictly speaking, in this reference, the Board has been charged only to find suitable replacement descriptions for (a), (b) and (c), to enable the elimination of the "not made in Canada" provision.

This item is apparently designed to bolster the competitive position of domestic manufacturers of aircraft, aircraft engines, airborne aircraft equipment and parts of all the foregoing, in light of the advantages derived by importers from free entry of competing goods under tariff items 44045-1, 44049-1, 44053-1, 44057-1, 44059-1 (see supra), 44060-1, 44061-1 and 44062-1. However, it will be noted that this drawback item does not cover the same goods as are provided for in the duty-free tariff items listed above. Instead, it covers certain machinery, accessories, attachments and control equipment, as described in the common preamble to tariff items 42700-1 to 42700-9, as well as precision instruments and apparatus used in the production of the relevant goods.

By 1987, with the completion of the MTN tariff reductions, a large part of the goods eligible for drawback under item 97053-1 will be free of duty, in any case, either under the Machinery Duty Remission Program or under tariff item 44532-1 ("electrical instruments and apparatus of precision ...").

As noted in the relevant staff appraisal,⁽¹⁾ no information has been secured by the Board respecting the applicability of published rulings to this drawback item. Nor are any data available regarding the relevant commodity classes.

However, the Board has been able to obtain figures indicating the total of drawbacks granted under each tariff item of Schedule "B" in the five fiscal years 1978/79 to 1982/83. Over the period as a whole, drawbacks paid under item 97053-1 amounted to some 2 per cent of the total paid under authority of Schedule "B" of the Customs Tariff. In absolute terms, the amount paid under the item increased steadily from \$189,000 in 1978/79 to \$569,000 in 1982/83, accounting for more than 4 per cent of the total paid in the latter fiscal year. Assuming an average rate of duty of 12.5 p.c. at the time of importation, this suggests that, in 1982/83, drawback was paid under this item with respect to goods valued at approximately \$4.6 million.

Submissions

The Air Transport Association of Canada (ATAC), representing the major domestic civilian air carriers (which also engage in the modification and repair of aircraft) urged that the scope of item 97053-1 be expanded by removal of the "not made" proviso and by extending admissibility to goods used for other than manufacturing purposes. Association members, now denied access to the item, would thereby become eligible to benefit from its provisions. A revised wording for the item was suggested as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Machinery; precision instruments <u>tools and equipment and appa-</u> <u>ratus, for manufacturing, ser-</u> <u>vicing, repairing, maintaining,</u> <u>converting, rebuilding, modi-</u> <u>fying, heat treating, welding,</u> sorting, testing, inspecting,	When used for the manufacture, <u>service, repair, maintenance,</u> <u>conversion, rebuilding or</u> <u>modification</u> or aircraft, air- craft engines, airborne air- craft equipment or for parts of the foregoing

⁽¹⁾ Ibid., p. 59.

Goods

When Subject to Drawback

or correcting; control panels for use with aforementioned machinery, precision instruments and apparatus; accessories and attachments for use with aforementioned machinery and precision instruments and apparatus; parts of the foregoing

Referring to a possible tariff solution, as put forward in the staff appraisal,⁽¹⁾ the Association rejected the notion of replacing existing drawback procedures by the application of provisions for duty remission supplemented by an eo nomine listing of residual "not available" goods.

The Aerospace Industries Association of Canada (formerly, the Air Industries Association of Canada), representing over 100 Canadian manufacturers, proposed the retention of item 97053-1 in a form which would continue to provide protection to domestic manufacturers of competing products. It suggested utilizing the Machinery Duty Remission Program, through tariff items 42700-1, 42700-4 and 42701-1, as the means for remitting duty on "not available" goods which would otherwise fall under these provisions. With respect to the remaining goods, those which are known to be "made" could be listed in a new dutiable item, with duty-free entry provided for other products when not available from Canadian production.

Both associations undertook, at one time, to provide lists of goods relevant to their proposals, but both eventually had to admit that they were unable to compete such lists.

Litton Systems Canada Limited of Rexdale, Ont., a manufacturer of aircraft equipment, proposed retention of the existing item "as an alternate method [to that available under the Machinery Duty Remission Program or, potentially, under tariff item 44532-1] of recovering duty paid". This

(1) Ibid., p. 61.

option, it was stated, "should remain available to the aircraft industry". The company urged the continuation of duty-free access to goods not available from production in Canada, in order that domestic manufacturers may remain competitive in export markets.

Conclusions and Recommendation

The Board concurs in the view expressed by the two aforementioned associations that it is not possible to replace item 97053-1 with any meaningful eo nomine listing. It also notes that, regardless of made-in-Canada status, most relevant parts, at least for civil aircraft and engines therefor, now have free entry, under the provisions of tariff item 44062-1, when for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of such goods.⁽¹⁾ The end uses under a replacement for item 97053-1 should be similar; the inclusion of servicing activity, however, as proposed by the Air Transport Association, might result in an undesirable expansion of the coverage of the item.

Consequently, in the interests of a solution which is equally equitable to Canadian firms producing aircraft and aircraft engine components and to concerns undertaking work on aircraft other than the manufacture thereof, the Board recommends expanding the coverage of the "when subject to drawback" clause to embrace the activities involved under tariff item 44062-1; it further recommends deletion of the proviso "of a class or kind not made in Canada", with respect to the description of the goods qualifying for drawback. The result would be a new item 97053-1 worded as follows:

Goods

Machinery; precision instruments and apparatus for heat treating, welding, sorting, testing, inspecting or correcting; control panels for use with the aforementioned machinery and precision instruments and

When Subject to Drawback

When used for the manufacture, repair, maintenance, rebuilding, modification or conversion of aircraft, aircraft engines, airborne aircraft equipment or of parts of the foregoing

⁽¹⁾ See supra, pp. 165-6.

Goods

When Subject to Drawback

apparatus; accessories and
attachments for use with the
aforementioned machinery and
precision instruments and
apparatus; parts of all the
foregoing, not including
consumable tools

Portion of duty payable as drawback: 100 p.c.

If felt desirable, the following could be inserted after the third clause under the description of goods: "all the foregoing when not available in Canada or not available in Canada to the required standard". This would broaden somewhat the scope of the existing Machinery Duty Remission Program to cover instruments, apparatus and control panels which might not fall under the provisions now in place.

Tariff Item 97071-1

Existing Tariff Provisions

This drawback item relates to materials used in the production or repair of aircraft, aircraft engines, airborne aircraft equipment, or parts of all the foregoing, as follows:

Goods

When Subject to Drawback

Materials of a class or kind not
made in Canada

When used for the manufacture
or repair of aircraft, air-
craft engines, airborne
aircraft equipment, or of
parts of the foregoing

Portion of duty payable as drawback: 100 p.c.

Drawback items are not bound under GATT.

The broad coverage of the item, insofar as goods eligible for drawback are concerned, is obvious from its wording. Like item 97053-1 (see supra), it is apparently designed to provide some compensation to domestic

manufacturers of aircraft, aircraft engines, airborne aircraft equipment and parts of all the foregoing, for the advantages derived by importers from free entry of competing goods under tariff items 44045-1, 44049-1, 44053-1, 44057-1, 44059-1 (see supra), 44060-1, 44061-1 and 44062-1. However, unlike drawback item 97053-1, it is available also to those engaged in the repair of such competing goods, including the major airlines.

It will be noted that this drawback item does not cover the same products as are provided for in the duty-free items listed above, but applies rather to materials, not produced in Canada, used to make such goods. The wide coverage of drawback item 97071-1 is self-evident and renders it impossible to make further meaningful comments on the actual goods for which drawback is available. The problem is further aggravated by the lack of any data regarding the commodity classes applied at time of importation to the goods on which drawback of duty has been paid.

During the five fiscal years 1978/79 to 1982/83, drawback paid under the authority of this item accounted for about 1 p.c. of the total drawbacks paid under authority of Schedule "B" of the Customs Tariff. However, during the aforementioned period, the amounts paid under item 97071-1 increased sharply, from \$55,000 in 1978/79 to \$260,000 in 1982/83, accounting for nearly 2 p.c. of total drawbacks in the latter year. Assuming an average rate of duty of 12.5 p.c. at the time of importation, this suggests that, in 1982/83, drawback was paid under this item with respect to goods valued at approximately \$2 million.

Submissions

The Air Transport Association of Canada (ATAC), representing the major domestic civilian air carriers (which also engage in the modification and repair of aircraft), proposed the elimination of the "not made" provision of tariff item 97071-1, thus providing exemption from duty for all materials used for the purposes indicated. The Association argued that drawback can be, and is, denied because of the existence of Canadian products, even though

these have not received the necessary safety certification. However, the Association indicated that it would not object to a tariff solution which provided protection for Canadian products with acceptable qualities.

The ATAC also proposed broadening the scope of the "when subject to drawback" clause, so that the item would be worded:

<u>Goods</u>	<u>When Subject to Drawback</u>
Materials of all kinds	When used for the manufacture, <u>service</u> , repair, <u>maintenance</u> , <u>conversion</u> , <u>rebuilding</u> or <u>modification</u> of aircraft, aircraft engines, airborne aircraft equipment or of parts of the foregoing.

The Aerospace Industries Association of Canada (formerly, the Air Industries Association of Canada), representing over 100 Canadian manufacturers, proposed retention of the item in a form which would continue to provide protection to domestic manufacturers of competing products. It claimed that such an item was essential to its members.

Both the aforementioned associations undertook to provide the Board with lists of goods which are, or should be, in their opinion subject to drawback. Neither succeeded in doing so. The Air Transport Association noted that thousands of products would be involved. The Aerospace Industries Association pointed out that changing technology made it impossible to compile any definitive listing.

Litton Systems Canada Limited of Rexdale, Ont., a manufacturer of aircraft equipment using mostly imported parts and components, indicated its belief that retention of duty-free access to goods not available from production in Canada would assist domestic manufacturers in maintaining their competitive position in world markets.

Conclusions and Recommendation

The Board agrees with the submissions of the interested associations that it is impossible to draw up a meaningful eo nomine item to replace item 97071-1. It further agrees with the view expressed by the Aerospace Industries Association that the interests of Canadian manufacturers of materials must be respected, although it is also sympathetic to the difficulties experienced by aircraft manufacturers, arising out of safety requirements. It feels that the end-use wording should be comparable to that in other aircraft items, such as 44062-1. The word "service" should not be added as this might be interpreted to include fuel or oil.

Consequently, the Board recommends that the "not made in Canada" provision in existing drawback item 97071-1 be retained unchanged but that in administering this provision, Revenue Canada should give the fullest possible consideration to the safety certification requirements under which the industry operates. As an alternate, the Board would suggest changing the wording of the section of the item defining "goods" to: "Materials not available in Canada and materials not available to the required standards in Canada".

Further, the Board recommends that the section "when subject to drawback" should be changed to include the terminology of tariff item 44062-1.

The new item 97071-1 would be worded:

<u>Goods</u>	<u>When Subject to Drawback</u>
Materials of a class or kind not made in Canada	When used for the manufacture, repair, maintenance, rebuilding, modification or conversion of aircraft, aircraft engines, airborne aircraft equipment or of parts of the foregoing
Portion of duty payable as drawback:	100 p.c.

CHAPTER 7. MACHINERY, EQUIPMENT, PARTS AND
ACCESSORIES USED IN THE MANUFACTURE OF MOTOR VEHICLES

Introduction

Provisions of Autopact

The tariff items in this group all relate to the automotive industry. As such, their application is subordinate to that of tariff items relating directly to the agreement with the United States embodied in the Autopact⁽¹⁾ and given effect by the following provisions in Group XI of the Customs Tariff:

		<u>British Prefer- ential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>
1. The rates of Customs duties on the following goods imported into Canada on or after January 18, 1965 from any country entitled to the benefit of the British Preferential Tariff or Most-Favoured-Nation Tariff, for which a special entry in such form and manner as is prescribed by the Minister has been made, are reduced to the rate set out as follows opposite the description of those goods:			
95001-1	Automobiles, when imported by a manufacturer of automobiles	Free	Free
95002-1	All parts and accessories and parts thereof, except tires and tubes, when imported for use as original equipment in automobiles to be produced in Canada by a manufacturer of automobiles	Free	Free
95003-1	Buses, when imported by a manufacturer of buses	Free	Free

(1) Agreement Concerning Automotive Products Between the Government of Canada and the Government of the United States of America, signed and entered into force provisionally January 16, 1965, in force definitively September 16, 1966.

95004-1	All parts, and accessories and parts thereof, except tires and tubes, when imported for use as original equipment in buses to be produced in Canada by a manufacturer of buses	Free	Free
95005-1	Specified commercial vehicles, when imported by a manufacturer of specified commercial vehicles	Free	Free
95006-1	All parts, and accessories and parts thereof, except tires, tubes and machines or other articles required under tariff item 43803-1 to be valued separately under the tariff items regularly applicable thereto, when imported for use as original equipment in specified commercial vehicles to be produced in Canada by a manufacturer of specified commercial vehicles	Free	Free

2.(1) In this Order,

- (a) "automobile" means a four-wheeled passenger automobile having a seating capacity for not more than ten persons;
- (b) "base year" means the period of twelve months commencing on August 1, 1963 and ending on July 31, 1964;
- (c) "bus" means a passenger motor vehicle having a seating capacity for more than 10 persons or a chassis therefor; but does not include any following vehicle or chassis therefor, namely an electric trackless trolley bus, amphibious vehicle, tracked or half-tracked vehicle or motor vehicle designed primarily for off-highway use;
- (d) "Canadian value added" has the meaning assigned by regulations made under section 273 of the Customs Act;
- (e) "manufacturer" of vehicles of any following class, namely automobiles, buses or specified commercial vehicles, means, in relation to any importation of goods in respect of which the description is relevant, a manufacturer that
 - (i) produced vehicles of that class in Canada in each of the four consecutive three months' periods in the base year, and
 - (ii) produced vehicles of that class in Canada in the period of twelve months ending on July 31 in which the importation is made,

(A) the ratio of the net sales value of which to the net sales value of all vehicles of that class sold for consumption in Canada by the manufacturer in that period is equal to or higher than the ratio of the net sales value of all vehicles of that class produced in Canada by the manufacturer in the base year to the net sales value of all vehicles of that class sold for consumption in Canada by the manufacturer in the base year, and is not in any case lower than seventy-five to one hundred, and

(B) the Canadian value added of which is equal to or greater than the Canadian value added of all vehicles of that class produced in Canada by the manufacturer in the base year;

(f) "net sales value" has the meaning assigned by regulations made under section 273 of the Customs Act; and

(g) "specified commercial vehicle" means a motor truck, ambulance or hearse, or a chassis therefor, but does not include any following vehicle or chassis therefor, namely a bus, electric trackless trolley bus, fire truck, amphibious vehicle, tracked or half-tracked vehicle, golf or invalid cart, straddle carrier or motor vehicle designed primarily for off-highway use, or any machine or other article required under tariff item 43803-1 to be valued separately under the tariff item regularly applicable thereto.

(2) For the purposes of paragraph (1)(e) of this section, in computing the net sales value of all vehicles of any class described in that subsection that were sold for consumption in Canada by a manufacturer

(a) in the period of twelve months ending on July 31, 1965, there shall be deducted an amount equal to one and one-half times the net sales value of all vehicles of that class so sold by the manufacturer in that period that were imported into Canada or taken out of warehouse for consumption on or after January 18, 1965, and for which no special entry as described in section 1 of this Order was made; and

(b) in any subsequent period of twelve months ending on July 31, there shall be deducted an amount equal to the net sales value of all vehicles of that class so sold by the manufacturer in that subsequent period that were imported into Canada or taken out of warehouse for consumption on or after January 18, 1965, and for which no special entry as described in section 1 of this Order was made.

- (3) Where a manufacturer of vehicles of any following class, namely automobiles, buses or specified commercial vehicles has, by notice to the Minister in writing accompanied by the consent in writing of any other person, designated such other person as a person associated with the manufacturer in the production of vehicles of that class in Canada in the base year and in any subsequent period of twelve months ending on July 31 specified in the notice, which notice has been communicated to the Minister on or before a day not later than the thirtieth day after the commencement of the period so specified or, in the case of the period ending on July 31, 1965, after January 18, 1965, the person so designated shall, with respect to vehicles of that class, be deemed for all purposes of this Order in the base year and in the period so specified, not to be a separate person but to be one and the same person as the manufacturer.

Further information regarding the administration of the above items can be found in the following Revenue Canada, Customs and Excise, Departmental Memoranda, reproduced in the section of Background No. 11 headed "General Administrative Procedures":

<u>Memorandum No.</u>	<u>Title</u>
D10-8-6	Motor Vehicles Tariff Order, 1965, and Tariff Item 95000 (Entry of Motor Vehicles) Regulations.
D10-8-7	Classification of Goods Under Tariff Items 95002-1, 95004-1 and 95006-1.
D10-8-8	Remission of Customs Duty on Certain Motor Vehicles, Parts and Accessories and Parts Thereof.

Related Tariff Items

Many of the referred items contain cross-references to motor vehicles enumerated in the following tariff items, given here to avoid unnecessary duplication in the text which follows:

41006-1 Diesel-powered self-propelled dump trucks, mounted on rubber-tired wheels or on rubber-tired wheels and half-tracks, having a rated capacity by struck volume of not less than 9 1/2 cubic yards, and by payload weight of not less than 15 tons, and parts thereof, for off-highway use in carrying minerals or other excavated materials at mines, quarries, gravel and sand pits or at construction sites

1/1/84	5 p.c.	9.5 p.c.	25 p.c.	5 p.c.	9.2 p.c.
1/1/85		9.4 p.c.			
1/1/87		9.2 p.c.			

42400-1 Fire engines and other fire extinguishing machines and chassis for same; complete parts other than chassis parts

1/1/84	Free	12.9 p.c.	35 p.c.	Free	10.2 p.c.
1/1/85		12.0 p.c.			
1/1/87		10.2 p.c.			

43803-1 Automobiles and motor vehicles of all kinds, n.o.p.; electric trackless trolley buses; chassis for all the foregoing

1/1/84	Free	11.4 p.c.	27.5 p.c.	Free	9.2 p.c.
1/1/85		10.7 p.c.			
1/1/87		9.2 p.c.			

Machines or other articles mounted on the foregoing or attached thereto for purposes other than loading or unloading the vehicle shall be valued separately and duty assessed under the tariff items regularly applicable thereto.

Virtually all the referred items relate to parts for the various types of motor vehicles listed in the three preceding tariff items. The principal residual provision for such parts is found in tariff item 43829-1, as follows:

43829-1 Parts, n.o.p., electro-plated or not, whether finished or not, for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses, or chassis enumerated in tariff items 42400-1 and 43803-1, including engines, but not including ball or

roller bearings, wireless receiving sets, die castings of zinc, electric storage batteries, parts of wood, tires and tubes or parts of which the component material of chief value is rubber

1/1/84	Free	11.4 p.c.	35 p.c.	Free	9.2 p.c.
1/1/85		10.7 p.c.			
1/1/87		9.2 p.c.			

The MFN rate applying to item 43829-1 is bound at 9.2 p.c.

Overview of Referred Tariff Items

The referred tariff provisions reviewed in this chapter comprise 18 Schedule "A" tariff items and one drawback item. Fifteen of the tariff items relate primarily to named goods, and parts thereof, for use in the manufacture and/or repair of specified types of motor vehicle. Items 43811-1, 43812-1 and 43813-1 cover original equipment parts for the manufacture of passenger automobiles, while items 43814-1, 43815-1, 43819-1, 43820-1, 43824-1 and 43825-1 cover original equipment parts for the manufacture of motor trucks, motor buses, electric trackless trolley buses, fire-fighting vehicles, motor ambulances, hearses and chassis. On the other hand, tariff items 43816-1, 43821-1 and 43826-1 apply to parts for the repair of the noted vehicles, while item 41106-1 pertains to goods for use in the repair of self-propelled logging trucks. Paired items 43806-1 and 43807-1, for their part, refer to the importation of parts for both the manufacture and repair of the goods of tariff items 41006-1 (diesel-powered self-propelled dump trucks), 42400-1 (fire engines and other fire-extinguishing machines) and 43803-1 (passenger automobiles, trucks and all other motor vehicles not specified in the Customs Tariff). The three remaining Schedule "A" items are all temporary provisions, created under the authority of section 273 of the Customs Act. Two of these items - viz: 43861-1 and 44560-1, make provision for bumper face bars and lamp bases respectively, while tariff item 43877-1 encompasses "not made" materials of all kinds used in the manufacture of passenger automobiles, buses, motor trucks, ambulances, hearses and parts and accessories thereof - i.e. the same categories of vehicles and components as are accommodated under the Autopact

(see infra). Nine of the aforementioned Schedule "A" items carry MFN rates which have been bound at Free, while goods presently qualifying under the remaining nine items are - or could be made - subject to bound rates ranging between 5.5 p.c. and 10.2 p.c. Finally, item 97052-1 provides for the drawback of duties with respect to machines, precision instruments, apparatus and control panels used in the production of motor vehicles and motor vehicle parts and accessories.

The introduction of the Autopact (APTA) tariff provisions in 1965 severely reduced the usefulness of the then-existing automotive-parts items and, indeed, left some without any significant area of practical application. In summary, the APTA authorizes manufacturers who were in existence during the base model year (1963-64) to import free of duty, specified vehicles and all parts except tires and tubes, for use in the manufacture of these vehicles. The importations may be effected by the producers themselves or their suppliers. Other firms which were not in existence in 1963-64 have since been designated as manufacturers for purposes of the APTA, being extended duty-remission privileges through Order-in-Council procedures. Both the APTA and the Orders in Council specify that the qualifying vehicles shall be: (1) passenger automobiles, (2) buses, or (3) motor trucks, ambulances or hearses. Chassis for buses, motor trucks, ambulances and hearses also qualify. Thus, the scope of the tariff items under review has been greatly diminished insofar as the classification of the named parts and their components for use in manufacturing APTA-specified vehicles is concerned. Of course, since the APTA does not cover repair parts, the scope of the referred items with respect to the aftermarket remains unchanged.

Electric trackless trolley buses, amphibious vehicles, tracked or half-tracked vehicles, motor vehicles designed primarily for off-highway uses, or motor vehicles, such as fire engines, specially constructed and equipped to perform special services or functions, are excluded from the Autopact, and parts for use in their manufacture remain under the above-mentioned referred tariff items. However, parts for use in the manufacture of these non-APTA vehicles may still be entered free of duty under tariff items 43814-1,

43815-1, and 43820-1, and at a reduced rate of duty under tariff item 43825-1, providing that the importing manufacturers are qualified in respect of criteria pertaining to British Commonwealth content and volume of production. In this regard, seven manufacturers of tracked vehicles, electric trackless trolley buses, fire trucks, all-terrain vehicles and airport crash trucks were authorized, in 1984 (as on October 15), to use these items, under regulations prescribed by the Governor in Council. Furthermore, six additional manufacturers of non-APTA vehicles were granted duty remission under the Off-Highway Truck Duty Remission Orders, with respect to parts classified under tariff items 43810-1, 43819-1 and 43824-1, as well as parts classified under other tariff provisions, mainly item 41006-1.

As a consequence of the Autopact, it is unlikely that Canadian importers would use tariff items 43806-1, 43807-1, 43811-1, 43812-1 and 43813-1 to import the relevant named parts for the manufacture of passenger automobiles. Similarly, it is not to be expected that parts for the manufacture of the other vehicles specified under the APTA - namely, buses, motor trucks, ambulances and hearses - would normally be entered under tariff items 43806-1, 43807-1, 43814-1, 43815-1, 43819-1, 43820-1, 43824-1 and 43825-1, importers generally preferring to use tariff items 95004-1 and 95006-1 providing for duty-free imports under the Autopact. Nevertheless, tariff items 43806-1, 43807-1, 43814-1, 43815-1, 43819-1, 43820-1, 43824-1 and 43825-1 still have relevance to manufacturers of non-APTA vehicles, while items 43806-1 and 43807-1 still maintain their importance so far as parts for repair purposes are concerned. However, inasmuch as there are no Canadian manufacturers producing more than 10,000 units of the non-APTA vehicles of tariff item 43815-1, that item cannot legitimately be used.

The following statistics relating to the value of importations under the referred items place them in perspective vis-à-vis total imports of the pertinent goods. As will be appreciated, however, the tariff items under review cover only the named parts and their components, whereas the Autopact covers all parts except tires and tubes. Furthermore, the tariff items under review cover mostly importations of parts for repair purposes, whereas the APTA is limited to importations of parts for manufacturing purposes.

VALUE OF IMPORTS OF AUTOMOTIVE PARTS, BY TARIFF ITEM, 1982 AND 1983

	<u>End Use</u>	<u>Value of Imports \$'000</u>	
		<u>1982</u>	<u>1983</u>
<u>Autopact Item</u>			
95002-1	Manufacture	6,528,892	8,227,271
95004-1	Manufacture	89,053	73,959
95006-1	Manufacture	2,633,450	3,089,342
		<u>9,251,395</u>	<u>11,390,572</u>
<u>Referred Item</u>			
41106-1	Repair	315	194
43806-1	Manufacture/Repair	79,836	90,874
43807-1	Manufacture/Repair	23,254	27,723
43811-1	Manufacture	438	97
43812-1	Manufacture	86	9
43813-1	Manufacture	1	-
43814-1	Manufacture	1,094	114
43815-1	Manufacture	26	35
43816-1	Repair	52,009	52,531
43819-1	Manufacture	30,591	25,697
43820-1	Manufacture	6,058	5,109
43821-1	Repair	143,081	162,511
43824-1	Manufacture	1,251	754
43825-1	Manufacture	25	21
43826-1	Repair	4,571	3,562
43861-1	Manufacture	304	287
43877-1	Manufacture	103,916	178,245
44560-1	Manufacture	1,177	1,080
97052-1	Manufacture	-	-
		<u>448,033</u>	<u>548,843</u>
<u>Related Item</u>			
43810-1	Manufacture/Repair	15,143	17,474
43829-1	Manufacture/Repair	524,616	588,039
43830-1	Manufacture/Repair	22	36
43832-1	Manufacture/Repair	1,822	2,305
43833-1	Manufacture/Repair	3,788	3,886
43842-1	Manufacture/Repair	4,905	6,173
43844-1	Manufacture/Repair	162	154
43845-1	Manufacture/Repair	4	14
43852-1	Manufacture/Repair	144	359
43863-1	Manufacture/Repair	1,204	1,530
43864-1(a)	Repair	10,489	9,782
43865-1	Manufacture/Repair	26	-
43872-1	Manufacture/Repair	430	615
		<u>562,755</u>	<u>630,367</u>
	Grand Total:	<u>10,262,183</u>	<u>12,569,782</u>

(a) This item (pertaining to engine "cores") was studied in Phase I of the present reference.

Source: Statistics Canada, Imports by Tariff Item, 1982 and 1983 (computer printouts).

While the above statistics are not fully comprehensive, they serve to demonstrate the overwhelming preponderance of automotive parts imports under the Autopact, approximately 90 per cent of all imports tabulated above being attributable to goods entering under tariff items 95002-1, 95004-1 and 95006-1. It is worthy of note that, in turn, this 90 per cent represented somewhat more than 13 per cent of the value of total imports into Canada in 1982 and somewhat less than 15 per cent in 1983. Of the remaining imports of automotive parts, excluding materials, non-referred item 43829-1 ("parts, n.o.p...") was responsible for substantially more than half, while the bulk of the remaining goods can be traced to referred items 43821-1, 43806-1 and 43816-1. Two of these three tariff items are concerned with parts for repair purposes only, while item 43806-1 makes no distinction between manufacturing and repair applications. Thus, although a precise breakdown on the basis of end use is not possible, it seems very likely that, among the non-Autopact items, the aggregate value of imports of repair parts substantially exceeded that of goods for original equipment manufacture. In line with this assumption, only six of 20 submissions received with respect to automotive parts have indicated a particular interest in original equipment usage, as opposed to the aftermarket.

On the other hand, 33 parties have made submissions pertaining to the materials of tariff item 43877-1, while 18 have indicated an interest in item 97052-1 governing drawback of duty on production equipment. These latter representations are not altogether surprising. In 1982, the value of imports under tariff item 43877-1 fell just short of \$104 million - a figure which, among the referred provisions relating to the manufacture or repair of motor vehicles, was exceeded only by the \$143 million of imports recorded against item 43821-1; in 1983, the value of imports entered under item 43877-1 increased sharply to \$178 million, exceeding the value of imports coming in under any of the other relevant referred items, including item 43821-1. Detailed information respecting the implementation of drawback provisions is, unfortunately, not readily available, but a rough calculation suggests that, in recent years, production equipment valued at the time of importation at some \$100-\$200 million per annum has been affected by these provisions.

General Submissions

A total of 55 submissions (excluding supplementary briefs) were received from individual companies, industry groups and trade associations with respect to items falling into this study groups. Some of the submissions, notably those emanating from the producers' and users' associations, were directed at a number of the tariff provisions under review. To avoid unnecessary repetition, general positions or statements of general principle contained in these submissions are summarized below. Observations with respect to specific goods are incorporated in the reviews of individual tariff items.

The views set forth in these general submissions are as follows:

The Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., representing Canadian assemblers of motor vehicles, in a proposal focussing primarily upon the aftermarket, with particular reference to tariff items 43806-1, 43807-1, 43816-1, 43821-1 and 43826-1, advocated listing only goods of a class or kind made in Canada, "all others in Group 6 tariff items, therefore, being accorded duty-free status in a single, n.o.p. item". The association considered that, initially, listings should be based upon historic "made/not made" criteria as applied in accordance with regulations under section 6 of the Customs Tariff,⁽¹⁾ and it expressed concern over the approach adopted by the Board in seeking to establish the made-in-Canada status of the goods at issue.⁽²⁾ In particular, the MVMA argued that official customs rulings should be used as the basis for made-in-Canada determinations by the Board; where no such rulings exist, it was felt that, in accordance with "the long standing administrative practice of Revenue Canada, Customs", goods should be regarded as "not made". In further elaboration, the association proposed that where "not made" rulings distinguish between parts for original equipment and parts for past model service, determinations with respect to the latter should be used as the basis for eo nomine listings.

(1) See supra, p. 14.

(2) See supra, pp. 5-6.

Respecting the classification of constituent parts, the MVMA advocated, that this should generally be in conformity with the classification of derived principal products. In order that "changing circumstances" might be accommodated, the association further proposed the provision of a mechanism to allow for "a process of updating the items listed", without having to wait for parliamentary approval.

Referring to "the relative non-use of the 438 series of tariff items for vehicle manufacture" (as opposed to vehicle repair), the Motor Vehicle Manufacturers' Association cautioned against the possible elimination or consolidation of these items, arguing that they represent "the only preferential duty rate alternatives to meeting the qualification requirements for use of the 950 series of tariff items or, in the extreme, if abrogation of the Canada/U.S. Automotive Products Trade Agreement occurred". In the association's view, the future of these items could also be affected by the government's response to the recommendations of the Automotive Task Force.⁽¹⁾

In a short written submission, in which it specified an interest in a number of the tariff items under review, Bombardier Inc. of Montreal, Que., a recent entrant into the sphere of military truck production, indicated an apparent general preference for some form of "availability" arrangement, as an alternative to the existing "made/not made" tariff provisions.

A more detailed submission was received from Volkswagen Canada Inc., which imports parts for the repair and maintenance of Volkswagen vehicles and operates a parts remanufacturing plant in Scarborough, Ont., mainly on the basis of components imported from West Germany. The proposal of this company was for the establishment of two new duty-free tariff items, one covering certain specified parts (currently classified under items 43806-1 and 43816-1) when for use in the repair and maintenance of passenger cars, and a companion item encompassing certain named parts (currently classified under items

(1) Report of the Federal Task Force on the Canadian Motor Vehicle and Automotive Parts Industries to the Honourable Edward C. Lumley, P.C., M.P., Minister of Industry, Trade and Commerce and Regional Economic Expansion (Ottawa, May 1983).

43821-1 and 43826-1) when for use in the repair and maintenance of motor trucks. These two proposed items, it was suggested, could be complemented by a "blanket" dutiable item covering "parts, not otherwise provided /for/, for repair and maintenance of motor vehicles in Canada". In relation to these specified end uses, this envisaged item would replace tariff items 43807-1, 43810-1 and 43829-1. In order "to accommodate production or lack of it in Canada", it was further suggested that the Department of Finance could adjust the dutiable status of specified goods "annually at budget time upon request from interested parties".

In another submission, Fram Canada Inc., Stratford, Ont., which both assembles and resells imported automotive parts, advocated the introduction of an eo nomine "general purpose tariff item" providing for the duty-free entry of parts and materials when imported by manufacturers of automotive parts for use in their own factories. As a complement to this item, it was proposed that a "basket item", carrying "a reasonable rate of duty", should be introduced, covering parts to be sold in the condition as imported, worded: "finished parts to be used in the repair and maintenance of motor vehicles". It was, however, contended that this latter proposed item should not provide for "parts of the foregoing", as "this would conflict with the eo nomine item also proposed above".

Schlegel Canada Inc., Oakville, Ont., a manufacturer of automotive parts for the OEM market, in a general commentary, agreed with the provisional made-in-Canada status of the goods as indicated in the Board's Background No. 11.

In a proposal having broad application, Dofasco Inc. of Hamilton, Ont., advocated an eo nomine listing of either the "made" or "not made" goods, "depending on the practicalities of individual situations". It further suggested "the inclusion of some type of 'safety net' - perhaps in the form of duty remission - to provide for possible future eventualities where dutiable goods must be imported because they are not made or available in Canada".

In another submission, the Automotive Industries Association of Canada (AIA), representing rebuilders, distributors and jobbers supplying the past model service market for motor vehicle parts, drew the Board's attention to "the very important contribution that rebuilders make by reusing components already imported". It was contended that this contribution is insufficiently recognized in existing tariff provisions: thus, none of the tariff items presently under review provide for the preferential entry of parts for the remanufacture - as opposed to the manufacture or repair - of motor vehicles or of their components. Perhaps, not surprisingly, the AIA felt the staff appraisal to contain "very little, if any, consideration of the aftermarket". In the association's view, the duty-free benefits conferred by tariff item 43864-1, with respect to "cores" and their related parts for use in the remanufacture of internal combustion engine components,⁽¹⁾ should be extended to all used unserviceable core components of motor vehicles and their constituent parts. As a complementary measure, the AIA favoured duty protection in relation to the rebuilt finished products.

Respecting the approach adopted by the Board in its enquiries into the made-in-Canada status of relevant goods, the association commented adversely on the use of statistical commodity classes for customs classification purposes, and also observed that the term "availability criteria", as used in the staff appraisal, required qualification - e.g. in regard to the size of an order.

(1) Tariff item 43864-1 was reviewed by the Board in connection with Phase I of the present enquiry (see Reference No. 157. Phase I, pp. 180-4). The item, as referred to the Board, is worded as follows:

Unserviceable parts of internal combustion engines, commonly known as "cores", for remanufacturing in Canada, namely: electric starter motors, generators and alternators, 32 volts or less. Parts, of a class or kind not made in Canada, for use in the remanufacture of the foregoing electric starter motors, generators or alternators

Free

Free

27.5 p.c.

Free

Free

With respect to the made-in-Canada status of goods as determined by the customs administration, the AIA informed the Board that all automotive parts are officially regarded as "not made" unless ruled to the contrary, thus supporting the testimony of the MVMA in this regard. The AIA considered that made-in-Canada determinations in relation to goods destined for the past model service market should be separate from those for goods for original equipment usage. The association supported the notion of an eo nomine listing of all pertinent products. It was not, however, in a position to advise the Board with respect to the made-in-Canada status of "cores" and the constituent parts thereof.

Representations were also made by two companies concerning specific products and/or tariff items which had not been referred to the Board. In this regard, Merit Automotive Products Ltd., of Toronto, Ont., which remanufactures water pumps, clutch assemblies and clutch plates, suggested broadening the scope of the end-use coverage of partly-referred tariff item 43864-1⁽¹⁾ to provide for the used "cores" of the aforementioned goods and their component parts.

Finally, Certified Brakes, a Lear Siegler Company, Rexdale, Ont., a rebuilder of used brake shoes for automobiles, proposed that the nomenclature of non-referred tariff items 43832-1 and 43833-1 be modified to reflect the use in brake linings of friction materials other than asbestos.

Tariff Item 41106-1

Existing Tariff Provisions

Goods of a class or kind not made in Canada enumerated in tariff items 43806-1, 43816-1, 43821-1 and 43842-1, for use in the repair of the self-propelled trucks enumerated in tariff item 41105-1, or the manufacture of repair parts therefor, instead of for the uses set out in tariff items 43806-1, 43816-1, 43821-1 and 43842-1

Free

Free

20 p.c.

Free

Free

(1) See supra, p. 194.

This tariff item was introduced in April, 1977. Although goods entering under the MFN Tariff are admitted free of duty, the bound rate is 8 p.c.

The coverage of this item can only be determined in terms of the other tariff items referred to in its nomenclature. The provisions of items 43806-1, 43816-1 and 43821-1 will be found in the later pages of this report.⁽¹⁾ Those pertaining to item 43842-1 (not referred directly to the Board) are set out below:

Body bottom cross members and steel shapes for the manufacture thereof;
Bumpers, front and rear, including spring steel bumper plates;
Casket tables or platforms for hearses;
Destination and route sign assemblies, illuminated or not;
Direction signals, illuminated or not;
Door and step mechanism, hand, vacuum or air operated;
Door locks and catches;
Electric switches, buzzers, bells, push buttons, fuse assemblies;
Forward drive control conversion assemblies;
Lamps of all kinds, illuminating and indicating, including sockets, flanges, terminals, glassware, lenses and gaskets therefor, assembled or not, but not to include lamp bulbs, sealed beam units, and electric head lamps;
Metal stampings and assemblies thereof, whether or not coated with oil, primer or sound deadening compound;
Rubber fenders;
Seat operating mechanisms;
Ventilators, including motor driven fan type, and grilles;
Window operating mechanisms;
Parts of all the foregoing;

All of the foregoing when imported to be used only in the manufacture or repair of motor truck bodies, motor bus bodies, electric trackless trolley bus bodies, fire fighting vehicles, ambulances and hearses

Free	Free	20 p.c.	Free	Free
------	------	---------	------	------

⁽¹⁾ Infra, pp. 201-2, 215-19, 232-3.

As indicated by the wording of referred item 41106-1, all the pertinent goods must be for use in the repair of, or for the manufacture of repair parts for, the self-propelled trucks described in tariff item 41105-1, as follows:

Self-propelled trucks, not including machines for felling, skidding, piling, loading, bunching or processing trees or logs, which have been modified for carrying a load; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/84	10.0 p.c.	10.4 p.c.	20 p.c.	6.5 p.c.	10.0 p.c.
1/1/85		10.0 p.c.		Free	
1/1/87	9.2 p.c.	9.2 p.c.			9.2 p.c.

The MFN rate applying to item 41105-1 is bound at 9.2 p.c.

In the absence of tariff item 41106-1, or when ruled to be of a class or kind made in Canada, the aforementioned goods, when imported for the repair of the trucks enumerated in tariff item 41105-1 would themselves be admitted under that item, at the rates shown above. When for use in the manufacture of repair parts for such vehicles, if not clearly classifiable as parts of the self-propelled trucks, they would be classified elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c.

Imports

The value of imports under tariff item 41106-1 has been comparatively low, a peak of \$588,000 being recorded in 1978. For the years 1979-81 the annual value of imports under this item averaged \$383,000. In 1982, imports were valued at \$315,000, while in 1983 they totalled \$194,000.

Submissions

The Board received a number of submissions in connection with the public hearing in relation to goods covered by tariff items 43806-1, 43816-1 and 43821-1 (see infra). Reference to item 41106-1 was made in two of these submissions - from Rockwell International of Canada Ltd., Toronto, Ont., (with particular reference to parts of brakes for heavy duty trucks and various plastic moulded products) and Bundy of Canada Limited, Bramalea, Ont., (respecting small diameter tubing and sintered powdered metal parts for transmissions). However, Rockwell's submission lacked a tariff proposal, while the goods made by Bundy are not considered to be applicable to the self-propelled logging trucks of tariff item 41105-1.

Two submissions made specific reference to the goods of tariff item 43842-1. Thus, Rockwell International indicated that it manufactures door locks and catches, seat operating mechanisms and window mechanisms for the vehicles named in this item, and it envisaged a loss of protection if tariff items 41105-1 and 41106-1 were to be eliminated. Secondly, Dominion Auto Accessories Limited, Toronto, Ont., claimed "made" status for "lamps of all kinds, illuminating and indicating, including lenses ... of plastic and gaskets therefor, assembled or not, but not to include lamp bulbs, sealed beam units and electric head lamps", as well as for "direction signals, illuminated or not". However, in the firm's opinion, sockets, flanges and terminals for the noted lamps of all kinds should be categorized as "not made", while it lacked knowledge regarding the made-in-Canada status of glass components. The company proposed deletion of "lamps of all kinds ..." from tariff item 43842-1, in order to eliminate the requirement for end-use certificates, "as lamps can be imported for trailers etc.".

In a written communication subsequent to the group hearing, the Motor Vehicle Manufacturers' Association, in response to a direct inquiry, indicated that it "would not object if tariff items 41105-1 and 41106-1 were removed from the Customs Tariff"; however, it recognized that "other industry sectors might be affected".

Conclusions and Recommendations

The "not made" goods of tariff items 43806-1, 43816-1 and 43821-1 for use in the repair of, or for the manufacture of repair parts for, motor vehicles will be commented upon subsequently.⁽¹⁾ In the absence of any information to the contrary, the Board considers the made-in-Canada status of parts for use in the repair of, or the manufacture of repair parts for, the self-propelled logging trucks described in tariff item 41105-1, to be the same as for the vehicles covered in the three aforementioned tariff items.

Rather than replacing tariff item 41106-1 with eo nomine descriptions of the relevant "not made" goods of tariff items 43806-1, 43816-1 and 43821-1, the Board would be in favor of amending the end-use provisions of these three tariff items so as to provide, additionally, for the repair of the self-propelled logging trucks of tariff item 41105-1.

With respect to the goods of tariff item 43842-1, as already commented upon in the staff appraisal,⁽²⁾ the provisions for "casket tables or platforms for hearses" and "door and step mechanism, hand, vacuum or air operated" are judged to be inappropriate to logging trucks and need not be commented upon further. In light of the submissions received by the Board, the only named goods falling under this item which are considered to be made in Canada are: "direction signals, illuminated or not"; "door locks and catches"; "lamps of all kinds, illuminating and indicating, including lenses and gaskets therefor, assembled or not"; "seat operating mechanisms"; and "window operating mechanisms". The only constituent parts of the named goods which have been reported to be made in Canada are bumper bar bolts capped with stainless steel. Further investigations by the Board have revealed that "electric switches, buzzers, bells, push buttons, fuse assemblies", provisionally designated in the staff appraisal as "made", are not, in fact, manufactured in Canada. In regard to goods previously accorded an "uncertain" made-in-Canada status, a "not made" designation is now attached thereto, in view of the lack of representations by Canadian manufacturers.

(1) Infra, pp. 208-10, 227-8, 239-41.

(2) Staff Appraisal. Machinery, Equipment, Parts and Accessories Used in the Manufacture of Motor Vehicles, p. 94.

As envisaged also in the case of tariff items 43806-1, 43816-1 and 43821-1, the Board would amend the end-use provisions of tariff item 43842-1 so as to provide additionally for the repair of the self-propelled logging trucks enumerated in tariff item 41105-1. "Not made" metallic parts for use in the manufacture - as opposed to the repair - of such vehicles, would continue to be provided for in tariff item 44205-1 (supra), if the Board's recommendations in regard to that item are adopted. In addition, in order to bring the coverage of tariff item 43842-1 in line with that of tariff item 41106-1, the Board would envisage a further extension in the scope of the end-use provisions of the former item by the inclusion therein of a reference to the manufacture of repair parts; at the same time, since 41106-1 is a "not made" item, any goods determined to be made in Canada might reasonably be excluded from the reformulated version of item 43842-1, even though such goods, if not qualifying for entry under the Autopact items, would likely become dutiable. These, and the other changes mooted above, would permit referred item 41106-1 to be deleted in its entirety.

In summary, therefore, the Board recommends:

1. Deletion of tariff item 41106-1 from Schedule "A" of the Customs Tariff.

2. Extension of the end-use coverage of tariff items 43806-1, 43816-1 and 43821-1 (as subsequently reformulated)⁽¹⁾ by providing in the end-use provisions of these items for the repair of "the goods of tariff item 41105-1" or of "self-propelled logging trucks", as appropriate.

3. Replacement of tariff item 43842-1 by a new item worded:

43842-1 Body bottom cross members and steel shapes for the manufacture thereof;
Bumpers, front and rear, including spring steel bumper plates;
Casket tables or platforms for hearses;

(1) Infra, pp. 215,232,244.

Destination and route sign assemblies, illuminated or not;
Door and step mechanism, hand, vacuum or air operated;
Electric switches, buzzers, bells, push buttons, fuse assemblies;
Forward drive control conversion assemblies;
Lamp sockets, flanges, terminals and glassware;
Metal stampings and assemblies thereof, whether or not coated with oil, primer or sound deadening compound;
Rubber fenders;
Ventilators, including motor driven fan type, and grilles;
Parts of all the foregoing other than bumper bar bolts capped with stainless steel;

All of the foregoing when imported to be used only in the manufacture or repair of motor truck bodies, motor bus bodies, electric trackless trolley bus bodies, fire-fighting vehicles, ambulances and hearses, in the repair of self-propelled logging trucks as described in tariff item 41105-1, or for use in the manufacture or remanufacture of repair parts for any of the foregoing

Free	Free	20 p.c.	Free	Free
------	------	---------	------	------

Tariff Items 43806-1 and 43807-1

Existing Tariff Provisions

Bearings, clutch release, with or without collar attached;
Bearings, graphite;
Bearings, steel or bronze backed, with non-ferrous metal lining, parts and materials therefor;
Bearings, steering knuckle thrust;
Bushings or sleeve bearings of bronze or powdered metal;
Bushings, graphited or oil impregnated;
Ceramic insulator spark plug cores not further manufactured than burned and glazed, printed or decorated or not, without fittings;
Collars, crankshaft thrust;
Compressors and parts thereof, air;
Commutator copper segments; commutator insulating end rings;
Tapered discs of hot-rolled steel, with or without centre hole, for disc wheels;
Diaphragms for fuel and vacuum pumps;
Distributor rotors and cam assemblies;
Door bumper shoes;
Electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, including brackets and fittings permanently attached thereto, but not to include battery terminals;

Gaskets of any material except cork or felt, composite or not, parts and materials therefor;
 Ignition contact points;
 Keys for shafting;
 Auxiliary driving control kits, designed for attachment to motor vehicles to facilitate their operation by physically disabled persons, and parts thereof;
 Laminated composition plastic timing gear blanks;
 Lenses of glass for motor vehicle lamps and for light reflectors;
 Lock washers;
 Magnetic plugs;
 Metal frames for convertible soft tops;
 Permanent mould pistons for brake master cylinders;
 Piston ring castings in the rough, with or without gates and fins removed;
 Propeller shaft tubes of steel bonded by rubber;
 Rails of lock seam section, corners, locks and catches, unplated ventilators and parts thereof, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies;
 Shift control, electric, for two speed rear axles;
 Steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof;
 Switches, relays, circuit breakers and solenoids and combinations and parts thereof, including starter switch assemblies;
 Synchronizing cones or blocking rings for transmissions;
 Vacuum, hydraulic or air control assemblies and parts thereof;
 Vulcanized fibre in sheets, rods, strips and tubings;
 Parts of all the foregoing;

All of the foregoing for use in the manufacture or repair of goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or for use in the manufacture of parts therefor:

43806-1	When of a class or kind not made in Canada				
	Free	Free	30 p.c.	Free	Free
43807-1	When of a class or kind made in Canada				
1/1/84	Free	9.7 p.c.	30 p.c.	Free	8 p.c.
1/1/85		9.1 p.c.			
1/1/87		8.0 p.c.			

These two items cover the same list of goods for use in the manufacture or repair of certain vehicles, with a distinction being drawn on the basis of the made-in-Canada status of the pertinent products. The vehicles to be manufactured or repaired encompass diesel-powered self-propelled dump trucks, fire engines, automobiles and motor vehicles of all kinds n.o.p., and electric trackless buses. These are described in terms of tariff items 41006-1, 42400-1 and 43803-1, the texts of which will be found in the introductory section of this chapter.⁽¹⁾ Because tariff items 43806-1 and 43807-1 apply, in part, to goods for use as original equipment, they would be subordinate in this regard to items 95004-1 and 95006-1. It should be noted that parts of the goods named in the common nomenclature of items 43806-1 and 43807-1 stand on their own insofar as their made-in-Canada status is concerned. Under the "not made" item a MFN rate of Free was bound under the MTN. Under the "made" item, the MFN rate has been bound at 8 p.c.

In the absence of these two tariff items, most of the goods in question would fall under tariff item 43829-1 ("parts, n.o.p., ... for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses ..."), which has a bound rate of 9.2 p.c. However, products excluded from that item would be classifiable elsewhere in the Customs Tariff, often under items with bound rates of 10.2 p.c.

Imports

The value of imports under each of the items under present review has been substantial, with item 43806-1 generally accounting for between three-quarters and four-fifths of the combined total. For the years 1979-82, the annual value of imports under item 43806-1 averaged \$83.6 million compared to \$23.1 million under item 43807-1. In 1983, the corresponding figures were \$90.9 million and \$27.7 million respectively.

(1) Supra, p. 185.

Submissions

The general submissions reviewed in the introductory section of this chapter are applicable in the case of these tariff items.

Among the users, the Motor Vehicle Manufacturers' Association (MVMA) indicated that, in regard to the goods presently covered by tariff items 43806-1 and 43807-1 and for the purposes named therein, it was prepared, on the basis of historic "made/not made" criteria, to accept only the following products as being made in Canada: gaskets of any material except cork or felt, composite or not, parts and materials therefor; ignition contact points, and parts thereof; and steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof.

The Automotive Industries Association of Canada (AIA), for its part, took issue with the preliminary finding of the Board that tapered discs of hot-rolled steel, with or without centre hole, for disc wheels (c.c. 589-99-89) are "made". Further, it attached "not made" designations to several classes of goods whose made-in-Canada status had been indicated in the staff appraisal as "uncertain" - viz: diaphragms for fuel and vacuum pumps (c.c. 588-34-10, 588-49-10); electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, for uses other than in internal combustion engines (c.c. 589-99-89); and switches, relays, circuit breakers, and solenoids and combinations and parts thereof, for other than automotive turn signal flasher units (c.c. 589-99-89). The association also drew the Board's attention to a number of the commodity classes and sub-classes listed in the staff appraisal which it regarded as inappropriate to the tariff items in question.

Volkswagen Canada Limited, Scarborough, Ont., in line with its general submission, asked that a non-dutiable ("not made") status be attached to the following products, and their constituent parts, when for use in the repair and maintenance of passenger cars: bearings, clutch release; bearing shells for crankshafts and camshafts; bushings of bronze or powdered metal;

bushings, graphited or oil impregnated; diaphragms for fuel and vacuum pumps; electric wiring terminals (including fuse boxes) and sockets (bulb holders); lenses of glass for motor vehicle lamps and for light reflectors; magnet plugs for transmissions; switches (not including toggle switches), relays for horns, headlights, sensors, starters, heaters, TDC's, logics, wipers and fans; vacuum control assemblies, and clutch master cylinders, and brake master cylinders (as parts of air control assemblies).

In addition to these representations, which addressed themselves to a number of the products under review, the Board received submissions with respect to compressors, ignition distributor rotors, gaskets (including materials and parts therefor), automotive turn signal flasher units, and parts of vacuum, hydraulic and air control assemblies.

Webster Mfg. (London) Limited, A division of CAE Industries Ltd., London, Ont., a manufacturer of various automotive products, indicated that it manufactures 12-volt portable air compressors for inflating automobile tires.

Likewise, Thermoset Plastics Ltd., Bellville, Ont., signified a production interest in ignition distributor rotors (falling under "distributor rotor and cam assemblies"). The company queried whether non-referred dutiable item 43829-1, which already provides for distributor caps, would not be a more appropriate tariff classification for distributor rotors than "made" item 43807-1, the two aforesaid products having much in common "in terms of materials, function, method of manufacture, manufacturing and distribution".

Gaskets and their various constituents attracted submissions from three interested parties, in addition to the Motor Vehicle Manufacturers' Association, as noted above.

Thus, Garlock of Canada Ltd., Toronto, Ont., claimed to produce gasket manufacturing materials consisting of compressed asbestos and compressed non-asbestos sheets, and combinations of asbestos and synthetic rubber.

Hayes-Dana Inc., Victor Products, St. Thomas, Ont., informed the Board that it manufactures gaskets falling under the following commodity codes: 474-24-44 ("gaskets, asbestos"), 496-52-40 ("gaskets, fabric, not further identifiable"), 496-52-50 ("gaskets, metal, not further identifiable"), 496-52-60 ("gaskets, paper, not further identifiable"), 496-52-80 ("gaskets, kits or sets, not further identifiable") and 496-52-90 ("gaskets, nes, except rubber and asbestos"). The company also provided a listing of "not made" rulings applying to various parts of gaskets - i.e. steel formed bottoms, metal flanges or rings of steel, copper or brass, and blank layers of steel for cylinder heads. With respect to materials for the manufacture of gaskets, Hayes-Dana informed the Board that, as a "general rule", these are not made in Canada, and it contended that the goods produced by Garlock Canada Ltd. (see above) "do not meet the application specifications as set down by our customers". The company requested that materials for gaskets should be allowed duty-free entry when they "are not readily available from production in Canada".

Lastly, Fram Canada Inc. of Stratford, Ont., indicated a manufacturing interest in rubber gaskets for spark plugs. The company also referred to its use of "not made" item 43806-1 for the importation for resale of positive crankcase ventilation valves, also known as PCV valves (these qualifying for entry under the aforesaid item as "vacuum, hydraulic or air control assemblies ... parts thereof").

Parts of control assemblies also figured largely in the submissions of other interested parties. Thus, Wagner Brake Company Limited of Bramalea, Ont., an importer and distributor of various automotive aftermarket products, suggested deleting the clause "of a class or kind not made in Canada" from tariff item 43806-1 and listing in a duty-free replacement item the following goods when for use in the repair of motor vehicles: wheel cylinder assemblies, brake calipers and master cylinder assemblies (being parts of hydraulic control systems), circuit breakers (subsumed in "switches, relays, circuit breakers and solenoids ..."), and parts of the foregoing. Although not a producer of the goods at issue, the company further proposed that automotive

turn signal flasher units and hydraulic brake hoses (of relevance as "switches, relays ..." and parts of hydraulic assemblies respectively) should be named in a provision for "made" goods rather than delegated to a catch-all item for residual products.

Most of the immediately aforementioned goods were also of interest - although, from a different standpoint - to Certified Brakes, a Lear Siegler Company, Rexdale, Ont., engaged in the manufacture of automotive and light truck brakes and the refurbishing of used brake shoes. As a means of encouraging enterprise engaged in the rebuilding of automotive parts in Canada, the company proposed that new or rebuilt master cylinders and caliper assemblies should be categorized as "made" goods and made dutiable. On the other hand, it was felt that "cores" and other components (e.g. springs, rubber parts and caliper pistons) for the rebuilding, remanufacture or repair of the aforementioned goods should be provided with duty-free entry under a new tariff item, perhaps numbered 43807-2. The company noted that a precedent for such an item existed in the Board's Phase I recommendation for the duty-free importation of "parts for the remanufacture or repair of electric starter motors, generators or alternators, 32 volts or less" under proposed tariff item 43864-2.⁽¹⁾

Certified Brakes also indicated an interest in hydraulic brake hoses, observing that these are assembled in Canada by The Weatherhead Division of Hayes-Dana Inc. from parts supplied by this company's U.S. parent. However, citing supply difficulties in dealing with this firm, Certified Brakes requested that hydraulic brake hoses should be classed as not made in Canada and allowed duty-free access under a replacement item for 43806-1.

In response to the above submission, Hayes-Dana Inc., The Weatherhead Division, St. Thomas, Ont., informed the Board that it manufactures many of the fittings used in the production of hydraulic brake hoses and that the supply problems referred to by Certified Brakes "occurred over two years ago

(1) See Reference No. 157. Phase I, pp. 180-4, 267.

and relate directly to a wide variety of small volume parts". The company claimed that a lifting of import duties would "seriously jeopardize" its competitive position, and it, therefore, urged that the aforementioned fittings and hose assemblies should continue to be treated as made in Canada.

In a related product area, Bundy of Canada Limited, Bramalea, Ont., asked that irrespective of end use - whether as original equipment or in the aftermarket - the small diameter double wall copper brazed tubing (c.c. 448-29-89) and small diameter electric weld tubing (c.c. 448-28-40 and 448-28-90) which it manufactures, and which has applications in brake systems, should be made dutiable and described in the following terms:

Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor, with tubing having a diameter of 3/8" or less and wall thickness less than .028".

Finally, Rockwell International of Canada Ltd., Toronto, Ont., informed the Board that it manufactures air chambers for truck air brakes in sizes ranging between 15" x 3" and 16.5" x 7".

Conclusions and Recommendations

As a result of representations made in connection with the final public hearing concerning Phase II tariff items and further investigations by the Board, the following goods, provisionally listed in the staff appraisal as "made" or of "uncertain" status, are now considered to be "not made", whether for the purpose of original equipment, repair or remanufacture, for all relevant categories of vehicle: "bearings, graphite"; "bushings, graphited or oil impregnated"; "collars, crankshaft thrust"; "tapered discs of hot-rolled steel, with or without centre hole, for disc wheels"; "door bumper shoes"; and "switches, relays, circuit breakers and solenoids and combinations and parts thereof", for other than internal combustion engine use, not including automotive turn signal flasher units. The made-in-Canada status of "ignition

contact points" and parts thereof has also been altered to "not made" so as to conform with a recent reported change in the official ruling with respect to these goods.⁽¹⁾

Certain other goods, formerly given an unqualified "made" designation in the staff appraisal, have, upon further inquiry, been discovered to be "not made" for purposes of repair and remanufacture. These goods are: "bearings, steering knuckle thrust"; and "rails of lock seam section, corners, locks and catches, unplated ventilators and parts thereof, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies". "Diaphragms for fuel and vacuum pumps", previously given an "uncertain" made-in-Canada rating, are also considered to be "not made" for the purposes indicated.

In yet other instances, with particular reference to repair applications, it has appeared to the Board that the "made" designations formerly attached to certain categories of goods should be qualified or modified with respect to product range. Thus, the "made" status previously ascribed, without qualification, to "piston ring castings in the rough, with or without gates and fins removed" is now seen as applying only to such goods when intended for use in the repair of motor vehicles having an engine size of between 76 and 549 cubic inches (1,245 and 8,996 cubic centimetres). Likewise, with regard to air compressors; only those falling within the size range 7 1/4 cfm to 24 cfm are now considered to be domestically produced for any of the purposes described in the nomenclature of the referred items. (Thereby excluded are portable air compressors of the type specified by Webster Mfg. Limited; these are judged to be motor vehicle accessories, rather than production or repair parts, and, as such, are not of relevant concern in the present context).

(1) "Ignition contact points and parts thereof" are listed as "made in Canada" in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 (November 8, 1982).

On the other hand, the following goods, formerly designated, in whole or in part, as "not made" or of "uncertain" status, are now considered to be "made", without qualification: "electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, including brackets and fittings permanently attached thereto, but not to include battery terminals"; and "steel bolts, studs, plugs, rivets or nuts, capped with stainless steel ... parts thereof" (to agree with the "made" status attached to the principal goods).

Respecting the made-in-Canada designations of other products referred to in the submissions of interested parties, the "made" status of hydraulic brake hoses is upheld. Likewise, the Board stands by the provisional made-in-Canada determinations set out in the staff appraisal with respect to materials for gaskets. Regarding the unidentified constituent parts of enumerated goods subsumed in "parts of all the foregoing", the Board considers that the most practical solution would be to categorize these for duty purposes in accordance with the "made/not made" determinations of the parent products.

With respect to the product coverage of the referred items, the Board would delete from among the "made" parts of vacuum, hydraulic or air control assemblies, as set out in the staff appraisal, the reference to air chambers for truck air brakes (listed in response to the submission of Rockwell International), since it would appear that these goods are subsumed in the term "service chambers" among parts of spring brakes. Similarly, inasmuch as tariff item 47815-1 makes specific provision, without qualification, for the duty-free entry of auxiliary driving kits for the disabled, the inclusion of an identical provision in the present context is deemed unnecessary. On the other hand, slack adjusters, previously featured in the staff appraisal covering tariff items 43819-1, 43820-1 and 43821-1 as "made" parts of truck brakes, are now thought to fall more appropriately under tariff items 43806-1 and 43807-1 as parts of vacuum, hydraulic or air control assemblies.

With respect to the proposed differential duty treatment of used "cores" and of the goods remanufactured from them (as represented by the Automotive Industries Association and Certified Brakes), the Board is of the opinion that, even if an appropriate formula - being both technically sound and administratively feasible - could be devised, its introduction into the existing tariff structure would add a further complicating dimension to an already over-complex situation. Given the need for simplification of the relevant portions of the Customs Tariff, and the lack of opportunity for other potentially interested parties to present their views, the Board is reluctant to consider making any positive recommendations in this regard.

On the other hand, as already indicated in connection with tariff item 43864-1, reviewed in Phase I of this inquiry⁽¹⁾, the Board finds it difficult to comprehend why components or parts of goods intended for use in remanufacturing activity should be rated differently for duty purposes from identical goods earmarked for repair usage. Such a distinction is not universally applied throughout the Customs Tariff,⁽²⁾ and the Board can see no good reason why it should be maintained in the present instance. Accordingly, the Board would admit motor vehicle parts for use in remanufacture on the same basis as parts for repair purposes.

On the more general issue of end use, it appears to the Board that since the advent of the Autopact in 1965, and in the broader context of aggregate motor vehicle production, the tariff items under review have been of peripheral significance as a means of obtaining goods for original equipment manufacture. In this regard, the provisions of the referred items clearly replicate to a considerable degree the coverage afforded by the 950 series of tariff items. Thus, it seems to the Board that, in the interests of

(1) Reference No. 157. Phase I, pp. 183-4.

(2) For example, tariff item 44210-1, reviewed by the Board in connection with Phase I of this inquiry, makes provision for the duty-free entry of rotors and certain other components "when imported for use in the repair or remanufacture of gas or steam turbines and parts thereof ...".

simplicity, there would be merit in limiting the application of the two items presently under review to goods imported for repair or remanufacturing purposes only, thereby allowing products for original equipment manufacture to fall into basket item 43829-1 ("parts n.o.p., ... for automobiles, motor vehicles ..."). This would result in a MFN duty of 9.2 p.c. being imposed in 1987 upon goods which would otherwise be duty free (under item 43806-1) or dutiable at 8 p.c. (under item 43807-1).

With respect to goods for use in repair or remanufacturing activities, one possibility would be to establish two eo nomine items - one for "made" goods and the other for "not made" products. However, the above-cited 1.2 p.c. duty differential separating the MFN rates applicable to item 43829-1 (the principal alternative provision for "made" goods) and item 43807-1 is not regarded by the Board as being sufficiently substantial as to warrant a separate listing of "made" products. Certainly, in comparison with the corresponding 7 1/2 p.c. duty differential obtaining at the time of the Autopact, the difference is of comparatively insignificant proportions. Thus, the Board would delete tariff item 43807-1 in its entirety, allowing the repair goods presently encompassed thereby to fall into item 43829-1 at the slightly higher rate of duty indicated. A modified version of tariff item 43806-1 would be maintained to provide for "not made" goods intended for use in other than original equipment manufacture.

It will be apparent that in arriving at this solution the Board was not persuaded by the pleading of the Motor Vehicle Manufacturers' Association to make continued provision for OEM goods in the coverage of the referred items, so as to provide a fall-back position in the event of the abrogation of the Autopact.⁽¹⁾ At this point in time, such a development seems unlikely. However, should it happen, the Board assumes that it would not be difficult for the government, should it so desire, to continue to provide for the duty-free access of original equipment goods for motor vehicle manufacture, possibly by means of the restoration of the end-use provisions now proposed for deletion.

(1) See supra, p. 192.

Respecting those manufacturers denied duty-free access to original equipment parts through the 950 series of tariff items, the Board envisages that arrangements similar to those already provided under Off-Highway Truck Duty Remission Orders could be used to offset the proposed imposition of duty on "not made" OEM goods presently entering under referred tariff item 43806-1.⁽¹⁾

Finally, in accordance with the Board's recommendations pertaining to tariff item 41106-1, the end-use provisions of the replacement item for tariff item 43806-1 should make reference to the self-propelled logging trucks of tariff item 41105-1. Manufacturers of such trucks would continue to enjoy duty-free access to "not made" metallic parts under tariff item 44205-1 (supra), if the Board's recommendations in regard to that item are adopted.

Accordingly, in light of the foregoing, the Board recommends that tariff items 43806-1 and 43807-1 be deleted from Schedule "A" of the Customs Tariff and be replaced by the following provisions covering "not made" goods only:

43806-1 Bearings, clutch release, with or without collar attached;
Bearings, graphite;
Bearings, steel or bronze backed, with non-ferrous metal lining, and materials therefor;
Bearings, steering knuckle thrust;
Bushings or sleeve bearings of bronze or powdered metal;
Bushings, graphited or oil impregnated;
Ceramic insulator spark plug cores not further manufactured than burned and glazed, printed or decorated or not, without fittings;
Collars, crankshaft thrust;
Compressors, air, of less than 7 1/4 cfm or more than 24 cfm;
Commutator copper segments; commutator insulating end rings;
Discs, tapered, of hot-rolled steel, with or without centre hole, for disc wheels;
Diaphragms for fuel and vacuum pumps;
Door bumper shoes;

(1) See supra, p. 188.

Ignition contact points;
Keys for shafting;
Laminated composition plastic timing gear blanks;
Lenses of glass for motor vehicle lamps and for light reflectors;
Lock washers of any metal, except steel; steel lock washers with internal or external teeth; and helical spring lock washers of steel, with an inside diameter greater than 1 1/2 inches;
Magnetic plugs;
Materials for gaskets, other than compressed asbestos and combinations of asbestos and synthetic rubber;
Metal frames for convertible soft tops;
Permanent mould pistons for brake master cylinders;
Piston ring castings in the rough, with or without gates and fins removed, other than for motor vehicles with engines ranging in size from 76 cubic inches to 549 cubic inches;
Propeller shaft tubes of steel bonded by rubber;
Rails of lock seam section, corners, locks and catches, and unplated ventilators, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies;
Shift control, electric, for two speed rear axles;
Steel formed bottoms, metal grommets (flanges) or rings of steel, copper or brass and blank layers of steel for cylinder heads or manifold gaskets;
Switches, relays, circuit breakers and solenoids and combinations thereof, including starter switch assemblies but not automotive turn signal flasher units;
Synchronizing cones or blocking rings for transmissions;
Vacuum, hydraulic or air control assemblies, other than spring brakes;
Parts of all the foregoing, other than the following:
Parts of vacuum, hydraulic or air control assemblies, namely:
Electric weld tubing, with outside diameter 3/8 inch or less and wall thickness .028 inch or less, and double wall copper brazed tubing, with outside diameter 3/8 inch or less and wall thickness .028 inch or less;
Hydraulic gear pumps to operate hoists and other accessories;
Hydraulic brake hoses and hydraulic brake locks;
Manual slack adjusters for air brake systems;
Nylon (polyamide) air brake tubing;
Parts of spring brakes, namely: spring locators, bulkheads, spring retainers and diaphragms;

All of the foregoing for use in the repair of goods enumerated in tariff items 41006-1, 41105-1, 42400-1 and 43803-1, or for use in the manufacture or remanufacture of repair parts therefor

Free	Free	30 p.c.	Free	Free
------	------	---------	------	------

Further, the Board recommends that the goods provided for in the above tariff item when used for original equipment purposes by manufacturers of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, shall be eligible for duty remission.

Tariff Items 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 and 43816-1

Existing Tariff Provisions

These six items, together with tariff item 43810-1, constitute a group of seven items applicable to the same goods, for various specified end uses. The seven items are as follows:

- Ammeters;
- Arm rests and wheel housing lining of indurated fibre, pressed to shape;
- Axle housings, one piece welded, machined or not, including parts welded thereto;
- Carburetors;
- Chassis frames and steel shapes for the manufacture therefor;
- Cigar and cigarette lighters, whether in combination with a cigarette holder or not, including base;
- Composite frame and floor structure of metal in the rough;
- Control ventilator gear box;
- Cylinder lock barrels, with or without sleeves and keys therefor;
- Dash heat indicators;
- Door opening weatherseal retainers;
- Engine speed governor units;
- External ornaments unplated, including name plates, letters and numerals, but not including finish or decorative mouldings;

Fluid couplings with or without drive plate assemblies;
Gauges, gasoline, oil or air;
Grilles not plated, polished or not before assembly, and parts thereof not plated or polished after final forming, casting or piercing, not including added finish or decorative mouldings;
Hinges, finished or not, for bodies;
Horns;
Instrument bezel assemblies; instrument board lamps; instrument panel, glove compartment, luggage compartment, hood compartment and door step lamps and wire assemblies;
Instrument board panels of moulded or laminated glass fibres and plastic;
Locks, electric ignition, steering gear, transmission, or combinations of such locks;
Mouldings of metal, with nails or prongs set in position, lead filled or not;
Oil filter parts, namely: perforated filter refill oil board bodies, refill end discs, and roll-seam perforated tubes;
Ornaments and identification plates of metal, unplated, not including finished or decorative mouldings;
Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor;
Purifiers for gasoline, including brackets and fittings therefor;
Radiator shutter assemblies, automatic;
Radiator water gauges;
Radiator shells not plated nor metal finished in any degree;
Reclining seat mechanisms;
Shackles, bearing spring;
Speedometers;
Spring covers of metal and closing strips or shapes therefor;
Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles, of plain or coated metal, in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree, including such stampings incorporating pierce or clinch nuts;
Steering wheels, rims and spiders therefor;
Sun visor blanks of gypsum weatherboard;
Swivel seat mechanisms;
Tachometers, with or without tachographs, both electric and gear driven;
Thermostatic controls;
Throttle, spark, choke, and hood lock release assemblies, including buttons therefor;

Torque converters;
Auxiliary transmission overdrive units and controls there-
for;
Universal joint ball assemblies;
Windshield and window wipers;
Parts of all the foregoing, including brackets, fittings
and connections therefor;

43810-1 All of the foregoing when for use in the manufacture or
repair of the goods enumerated in tariff items 41006-1,
42400-1 and 43803-1, or for use in the manufacture of parts
therefor

1/1/84	Free	9.7 p.c.	30 p.c.	Free	8 p.c.
1/1/85		9.1 p.c.			
1/1/87		8.0 p.c.			

43811-1 If the above articles, when of a class or kind not made
in Canada, are for use as original equipment by a manufac-
turer of passenger automobiles (having a seating capacity
for not more than ten persons each) enumerated in tariff
item 43803-1, whose total factory output, during the year
in which importation is sought, does not exceed ten thousand
such complete passenger automobiles, and if not less than
forty per cent of the factory cost of production of such
automobiles, not including duties and taxes, is incurred in
the British Commonwealth, the rates of duty under this item
shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43812-1 If the above articles, when of a class or kind not made
in Canada, are for use as original equipment by a manufac-
turer of passenger automobiles (having a seating capacity
for not more than ten persons each) enumerated in tariff
item 43803-1, whose total factory output, during the year
in which importation is sought, exceeds ten thousand, but
does not exceed twenty thousand such complete passenger
automobiles, and if not less than fifty per cent of the
factory cost of production of such automobiles, not in-
cluding duties and taxes, is incurred in the British
Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43813-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of passenger automobiles (having a seating capacity for not more than ten persons each) enumerated in tariff item 43803-1, whose total factory output, during the year in which importation is sought, exceeds twenty thousand such complete passenger automobiles, and if not less than sixty per cent of the factory cost of production of such automobiles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43814-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, motor ambulances, and hearses, or chassis for same, as enumerated in tariff items 41006-1, 42400-1 and 43803-1, whose total factory output of such vehicles during the year in which importation is sought, does not exceed ten thousand such vehicles, and if not less than forty per cent of the factory cost of production of such vehicles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43815-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, motor ambulances and hearses, or chassis for same, as enumerated in tariff items 41006-1, 42400-1 and 43803-1, whose total factory output of such vehicles during the year in which importation is sought, exceeds ten thousand units, and if not less than fifty per cent of the factory cost of production of such vehicles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43816-1 If the above articles are of a class or kind not made in Canada, and are for use in the repair of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or

are for use in the manufacture of repair parts therefor, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items 43810-1, 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 and 43816-1.

It should be noted, with respect to the referred tariff items 43811-1 to 43816-1 inclusive, that the "not made in Canada" criterion applies not only to the named goods but also to their parts, including brackets, fittings and connections therefor. Thus, to qualify, each part of a named product must be "of a class or kind not made in Canada". While all of these items have reference to the same body of goods, they are distinguished from each other on the basis of (i) usage - notably, whether the goods are for manufacturing and/or repair purposes, (ii) the category (or categories) of motor vehicle(s) produced and/or repaired, (iii) in the case of goods for use as original equipment - the manufacturer's volume of output, and (iv) the manufacturer's degree of reliance upon inputs of British Commonwealth origin. Insofar as tariff items 43810-1 to 43815-1 relate to original equipment parts, they are subordinate to the provisions of tariff items 95002-1, 95004-1 and 95006-1. Tariff item 43816-1 refers to repair parts and goods for use in the manufacture of repair parts, if "of a class or kind not made in Canada". The latter item is bound at Free, as are items 43811-1 to 43815-1. In the case of item 43810-1, which is otherwise less circumscribed than the other items in the group, the bound (1987) M.F.N. rate has been set at 8 p.c.

The regulations for the administration of these items are set forth in Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-4. This explains the method of determining the proportion of costs that can be claimed as being of British Commonwealth origin, and prescribes the declarations to be made by manufacturers of goods for which parts are claimed for entry under tariff items 43811-1, 43812-1, 43813-1, 43814-1 and 43815-1. The said manufacturers have the option of entering the goods under item 43810-1 and claiming an annual refund for goods found to have qualified under the alternative items.

Inasmuch as manufacturers of passenger automobiles are able to obtain exemption from payment of duty on the named goods when for use as original equipment, either under the terms of the Autopact or through the use of duty remission orders, it is perhaps surprising that any imports should be recorded to tariff items 43811-1, 43812-1 and 43813-1 (which pertain to "articles ... for use as original equipment by a manufacturer of passenger automobiles"). Tariff items 43814-1 and 43815-1, on the other hand, provide necessary avenues of import for manufacturers of off-highway vehicles, which were excluded from the provisions of the Autopact. The Governor in Council has qualified seven firms⁽¹⁾ to import goods under these two items, although, in theory, only item 43814-1 may be used, since no Canadian producer presently manufactures in excess of 10,000 units per year, as specified in item 43815-1.

It will be noted that tariff item 43810-1, which was not referred to the Board and which covers parts for manufacture or repair, serves as the first alternative to all the other items for goods not qualifying for entry thereunder. In the absence of the entire group, those parts qualifying under its wording would be covered by tariff item 43829-1, with a bound rate of 9.2 p.c.; goods excluded from that item would be dutiable under items elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c. The provisions of tariff items 95002-1, 95004-1, 95006-1 and 43829-1 are set out in the introductory section of this chapter, supra.

Imports

In recent years item 43816-1, covering "not made" goods for repair purposes, has accounted for between three-quarters and four-fifths of the value of total imports under the seven aforementioned tariff items, with non-referred ("made") item 43810-1 accounting for the overwhelming bulk of the remainder.

(1) The seven firms are: Canadian Foremost Ltd., Calgary, Alberta; Flyer Industries Limited, Winnipeg, Manitoba; Pierreville Fire Trucks Ltd., Pierreville, Quebec; Terra Flex Division of Bombardier Inc., Calgary, Alberta; Universal Go-Tract Limited, Pointe Claire, Quebec; Walter Motor Truck Co. of Canada Ltd., Ville d'Anjou, Montreal, Quebec; Camions Thibault, Pierreville, Quebec.

Value of Imports, 1979-83 (\$'000)

<u>Tariff Item</u>	<u>Average 1979-82</u>	<u>1983</u>
43810-1	14,221	17,474
43811-1	274	97
43812-1	49	9
43813-1	1	-
43814-1	506	114
43815-1	54	35
43816-1	55,779	52,531

Submissions

The general submissions reviewed in the introductory section of this chapter are applicable in the case of these tariff items.

None of the firms qualified to import goods under tariff items 43814-1 and 43815-1,⁽¹⁾ made submissions to the Board in the present context.

Among the users, the Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., noted that its members do not currently make use of tariff items 43811-1, 43812-1, 43813-1, 43814-1 and 43815-1 because of the existence of the Autopact, but as an insurance against possible changes in this agreement, it recommended that the items be retained. With respect to tariff item 43816-1 (encompassing goods for repair purposes) the MVMA advocated deletion of the "class or kind not made in Canada" qualification and the exclusion of the following goods, recognized as "made";

Oil filter parts, namely: perforated filter refill oil board bodies, refill end discs, and roll-seam perforated tubes;

Purifiers for gasoline, including brackets and fittings therefor;

Radiator shells not plated nor metal finished in any degree; Thermostatic controls;

Universal joint ball assemblies;

Parts of all the foregoing, including brackets, fittings and connections therefor.

(1) See supra, p. 220.

These "made" goods, it was suggested, could be listed in a new item 43817-1, with a MFN rate of duty of 10.3 p.c., reducing to 8 p.c. on January 1, 1987.

Quoting published memoranda, the Automotive Industries Association of Canada (AIA) noted that, contrary to the preliminary findings of the staff appraisal, a "made" ruling was in effect with respect to horns, while a "not made" ruling had been applied to carburetors (domestically rebuilt carburetors excepted). Further, in qualifying the "made" designations attached in the staff appraisal to "purifiers for gasoline" and "universal joint ball assemblies" the association reminded the Board that only filters of the inline throwaway type and universal joints of the cross type had been so ruled. Similarly, with respect to "pipe lines of tubing, rigid, covered or not, with or without fittings", the AIA noted that only goods "for use in the manufacture of automotive vehicles" had been officially recognized as "made", while "tubing used in the manufacture of conventional pressure pipes, such as gasoline, oil and air" was governed by a "not made" ruling. Further, the association attached "not made" designations to several classes of goods whose made-in-Canada status had been listed in the staff appraisal as "uncertain" - viz: electric ignition, steering gear and ignition locks; speedometers; and hood lock release assemblies (when for past model service). The association also drew the Board's attention to a number of the commodity classes and sub-classes listed in the staff appraisal which it regarded as inappropriate to the tariff items in question. Finally, the AIA indicated support for the views contained in the brief of Eaton Yale Ltd. (see infra).

Volkswagen Canada Limited, Scarborough, Ont., in line with its general submission, asked that a non-dutiable ("not made") status be attached to the following products when for use in the repair and maintenance of passenger cars:

- Ammeters/voltmeters;
- Axle housings for front axles;
- Cigar and cigarette lighters;
- Composite frame and floor structures of metal, and parts thereof;
- Cylinder lock barrels and keys;
- External ornaments and identification plates of anodized aluminum and paint-dipped steel sheet, including emblems, name plates, letters, insignias and signs;

Gauges: fuel and tank unit, oil, oil pressure, oil temperature, air;
Hinges for bodies;
Instrument bezel assemblies;
Locks: electric ignition, steering gear, transmission;
Rigid pipes: brake fluid, gas, fuel, oil, air, filler, feed, breather, etc.;
Radiator water gauges and water temperature gauges;
Reclining seat mechanisms;
Speedometers;
Steering wheels;
Tachometers;
Hood lock release assemblies;
Torque converters;
Constant velocity joints;
Windshield wipers and parts other than wiper blades and wiper rubbers;
Constant velocity half shafts;
Glove compartments and hood or luggage compartments;
Instrument panels and parts;
Parts of the aforementioned.

In addition to these representations, which addressed themselves to a number of the products under review, the Board received submissions with reference to axle housings, chassis frames, name plates, instrument board panels, oil filter parts, tubing, thermostats and parts thereof, hood lock release assemblies, sintered metal parts for auxiliary transmission overdrive units, and windshield wiper blades and refills.

Thus, Hayes-Dana Inc., Drive Train Division, Thorold, Ont., advised the Board that it produces axle housings for the manufacture of heavy duty motor trucks and chassis frames for the manufacture of light motor trucks and vans.

With respect to a very different product area, Webster Mfg. (London) Limited, London, Ont., informed the Board of its production interest in name plates for use in original equipment manufacture.

In another submission, Rockwell International of Canada Ltd., Toronto, Ont., indicated that it manufactures instrument board panels for trucks, for both manufacturing and repair purposes.

Two submissions were received with reference to oil filter parts (other than materials admissible under tariff item 43877-1).⁽¹⁾ In one of these, Hastings Inc., Scarborough, Ont., informed the Board of its imports of "refill end discs" and "roll-seam perforated tubes" under tariff item 43816-1, expressing a concern that, without continued duty-free access to these goods, its competitive position would be seriously undermined. Respecting possible alternative tariff arrangements, the company suggested that, in the determination of "made/not made" products, "type or size" might be a more appropriate criterion than "class or kind".

"Roll-seam perforated tubes" (alternatively known as "centre tubes") also featured in the submission of Purolator Products Ltd., Mississauga, Ont., which represented that these goods should not be categorized as "made in Canada" since, while there was some domestic production, it was for the manufacturers' own use and not for commercial sale. Fram Canada Inc., Stratford, Ont., whose domestic production of centre tubes was thus discounted, pointed to similar non-marketed production on the part of two other Canadian filter manufacturers - viz: Wix Inc., Pickering, Ont., and the Kralinator Filter Division of Sheller-Globe of Canada Limited, Cambridge, Ont., - and professed a willingness to supply Purolator's production requirements for these goods. On the broader question of tariff format, Purolator indicated a preference for as complete a listing of "not made" goods as possible, with "made", goods covered by a n.o.p. basket provision. However, the company considered that a simple "amending formula" might be necessary to accommodate new products coming onto the market or changes in the "made/not made" status of existing products.

With respect to a different product area, Bundy of Canada Limited, Bramalea, Ont., asked that, irrespective of end use (as original equipment or in the aftermarket), the small diameter tubing which it manufactures should be made dutiable and described in the following terms:

(1) See infra, p. 255.

Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor, with tubing having a diameter of 3/8" or less and wall thickness less than .028".

The company further noted a production interest in sintered powdered metal parts of auxiliary transmission overdrive units.

Two submissions were received with respect to thermostatic controls and parts thereof. In one of these, Eaton Yale Ltd., of Scarborough, Ont., which assembles thermostats from components supplied by its U.S. parent plant, sought continued protection for its finished products through a duty imposed on imported competitive thermostats, and duty-free admission for its own imported components, held by the firm - but not by Revenue Canada - to be "of a class or kind not made in Canada". The company proposed the adoption of a classification standard whereby "products shall be deemed to be of the same class or kind only when the products being compared meet the industry standards applicable to those products"; and it indicated its approval of the greater certainty regarding product classification provided by an eo nomine approach.

In a submission which conflicted in some respects with the foregoing, Procan Automotive Inc. of Montreal, Que., asked for the retention of duty on complete thermostats and on the following named "made" parts: power element cups, guides, pistons, pellets, valves, flanges, top frames, bottom frames and springs. The company also requested that the present ("not made") duty-free status applying to rubber socks for thermostats should be maintained.

In an oral representation at the hearing to review the staff appraisal, Dominion Chain Inc., Stratford, Ont., claimed that it possessed the capability of manufacturing hood lock release assemblies (designated as of "uncertain" made-in-Canada status) but stated that, due to "difficulties of a non-tariff nature", it had been precluded from doing so. The company also observed that, at least in regard to the area of business in which it is involved, manufacturers supplying the original equipment market should be

regarded as producing for the aftermarket, inasmuch as they are generally required by motor vehicle manufacturers to maintain tooling capability of supply for seven years.⁽¹⁾

In a submission, subsequently revised and expanded, Anco Products Ltd. of Downsview, Ont., which assembles windshield wiper blades and refills from piece parts imported from the United States under tariff item 43816-1, stated a preference for retention of the existing tariff nomenclature with the "class or kind" provision; and it referred to a problem in developing a detailed listing of relevant parts, in that wiper blade and refill components ruled to be of a class or kind made in Canada "are identifiable only by part number and not by a general description". The company proposed alternative tariff provisions, worded as follows:

43810-1 Windshield and window wiper blades and refills, except arms, for use in the repair of passenger cars and light duty trucks; parts of the foregoing
MFN 8 p.c. (1987)

43816-1 Heavy duty windshield wiper blades, arms and refills, for the repair of commercial vehicles, including arms for passenger cars and light duty trucks; parts of the foregoing
MFN Free

- Components parts when for use in the manufacture of windshield and window wiper blades and refills.
MFN 8 p.c. (1987)
Subject to duty remission when not available from production in Canada.

Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont., in a submission directed primarily at tariff item 43877-1, expressed concern with respect to the General Preferential Tariff rate of Free applying to items 43810-1 through 43816-1, stating: "If this is retained significant damage is expected to impact on the industry".

(1) Reference No. 157. Phase II. Transcript of Proceedings, January 10, 1984, pp. 90-3.

Finally, Merit Automotive Products Ltd. of Toronto, Ont., which remanufactures water pumps, clutch assemblies and clutch plates, suggested an extension in the end-use coverage of tariff item 43816-1 to include automobiles.

Conclusions and Recommendations

As a result of reactions to the staff appraisal and further investigations by the Board, the following goods, provisionally designated as "made" or of "uncertain" status, are now considered to be "not made", whether for the purpose of original equipment, repair or remanufacture, for all relevant types of vehicle: carburetors; "hinges, finished or not, for bodies" - all "other" (residual) categories not already designated as "not made"; instrument bezel assemblies; instrument board lamps; instrument panel, glove compartment, luggage compartment, hood compartment and door step lamps and wire assemblies; "locks, electric ignition, steering gear, transmission, or combinations of such locks"; refill end discs and roll-seam perforated tubes, being parts of oil filters (the Board taking the view that production for commercial sale is a necessary qualification for a "made" designation); "shackles, bearing spring"; speedometers; stampings for cowls and instrument boards; throttle, spark and choke assemblies for current model service (other such assemblies having already been designated as "not made"); hood lock release assemblies (the purported capability of Dominion Chain Inc. to produce these goods being regarded as insufficient justification for a "made" rating); windshield and window wipers.

In addition, the following goods, which were given a "made" or "uncertain" designation in the staff appraisal, are now considered to be "not made" for motor vehicles other than automobiles and light trucks (with a gross vehicular weight of 10,000 pounds or less): "arm rests and wheel housing lining of indurated fibre, pressed to shape" (also "not made" for the original equipment manufacture of automobiles and light trucks); "ornaments and identification plates of metal, unplated, not including finished or decorative mouldings" (also "not made" for manufacture or current model service of

automobiles and light trucks); "pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor"; reclining seat mechanisms (also "not made" for repair of automobiles and light trucks); stampings for baffles, door pillars and shields (also "not made" for past model service of automobiles and light trucks); and "steering wheels, rims and spiders therefor" (also "not made" for past model service of automobiles and light trucks).

Moreover, "axle housings, one piece welded, machined or not, including parts welded thereto" are now deemed to be "made" only for use in the manufacture (but not the repair) of heavy-duty motor trucks; while "chassis frames and steel shapes for the manufacture thereof" are considered to be "made" only for use in the manufacture (but not the repair) of light motor trucks. Finally, thermostatic controls, which were accorded an unqualified "made" rating in the staff appraisal, are now categorized as "not made" for both the manufacture and repair of heavy-duty diesel motor trucks.

On the other side of the coin, engine speed governor units and "instrument board panels of moulded or laminated glass fibres and plastic", which were respectively designated as "not made" and "uncertain" in the staff appraisal, are now deemed to be "made" for the manufacture and repair of all relevant motor vehicles.

Apropos the submission of the Automotive Industries Association of Canada, no change has been made to the provisional "not made" designation attached to horns (officially ruled as "made" in 1953), since the Board has been unable to identify any Canadian producer of these goods.

Respecting other products, stampings for bumpers, which were listed under the present review items in the staff appraisal, have been deleted therefrom, it being considered that these goods (now judged to be "not made" rather than "made") fall more properly under tariff item 43842-1 for the relevant vehicles and purposes therein indicated, or under item 43829-1 for other purposes.

With respect to any unidentified parts of the goods encompassed by the tariff items under review, the Board recommends that these should be classified for duty purposes in accordance with the classification of their parent products.

For the reasons already given in the review of tariff items 43806-1 and 43807-1,⁽¹⁾ the Board favours a reformulation of the end-use provisions of the referred items so as to exclude goods for use as original equipment but to include parts for use in remanufacturing. If, at the same time, tariff item 43810-1 is deleted, the OEM goods presently entering under this item and under tariff items 43811-1 to 43815-1 inclusive would thereby become subject, in 1987, to MFN rates of duty of 9.2 p.c. (under item 43829-1) and 10.2 p.c. However, since, in the absence of change, the great bulk of these goods would, in any event, be rated at 8 p.c. under tariff item 43810-1, and since the combined annual value of imports recorded under duty-free items 43811-1 to 43815-1 has in all recent years, except 1982, been well under \$1 million (with no allowance being made for likely customs mis-classification and statistical coding errors),⁽²⁾ the increased liability to duty would not be very significant. Nevertheless, the Board feels that it would be appropriate to institute compensatory duty remission arrangements to offset the proposed imposition of duty on "not made" original equipment parts (presently entering legitimately under tariff item 43814-1) when for use in the manufacture of motor vehicles not covered by the Autopact.

Further, in accordance with the Board's recommendations pertaining to tariff item 41106-1, the end-use provisions of the replacement item for tariff item 43816-1 should make reference to the self-propelled logging trucks of tariff item 41105-1. Manufacturers of such trucks would continue to enjoy duty-free access to "not made" metallic parts under tariff item 44205-1 (supra), if the Board's recommendations in regard to that item are adopted.

(1) Supra, pp. 211-13.

(2) It is the Board's understanding that parts for the manufacture of passenger automobiles are much more likely to be imported under the Autopact tariff provisions than under tariff items 43811-1, 43812-1 or 43813-1, while no Canadian manufacturer of non-Autopact vehicles produces the necessary 10,000 units to qualify for legitimate use of tariff item 43815-1.

However, to provide also in the end-use coverage for passenger automobiles, as suggested by Merit Automotive Products Ltd., would seemingly constitute a much more far-reaching change, and one in regard to which the Board is unwilling to make any recommendation.

Similarly, a reformulation of rates under the General Preferential Tariff, as requested by Sheller-Globe of Canada Limited, with respect to these provisions and certain of the other referred tariff items,⁽¹⁾ is judged by the Board to lie outside the scope of its mandate in the present context.

Accordingly, in light of the foregoing, the Board recommends that tariff items 43810-1, 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 and 43816-1 be deleted from Schedule "A" of the Customs Tariff and be replaced by the following tariff item covering "not made" goods for purposes of repair and remanufacture:

43816-1 Ammeters;
 Arm rests and wheel housing lining of indurated fibre,
 pressed to shape other than for automobiles and motor
 trucks;
 Axle housings, one piece welded, machined or not, including
 parts welded thereto;
 Carburetors;
 Chassis frames and steel shapes for the manufacture there-
 for;
 Cigar and cigarette lighters, whether in combination with a
 cigarette holder or not, including base;
 Composite frame and floor structure of metal in the rough;
 Control ventilator gear box;
 Cylinder lock barrels, with or without sleeves and keys
 therefor;
 Dash heat indicators;
 Fluid couplings with or without drive plate assemblies;
 Gauges, gasoline, oil or air;
 Grilles not plated, polished or not before assembly, and
 parts thereof not plated or polished after final forming,
 casting or piercing, not including added finish or
 decorative mouldings;
 Hinges, finished or not, for bodies;

(1) Tariff items 43819-1, 43820-1, 43821-1, 43824-1, 43825-1 and 43826-1 were also mentioned by Sheller Globe in this connection.

Horns;
Instrument bezel assemblies; instrument board lamps;
instrument panel, glove compartment, luggage compartment,
hood compartment and door step lamps and wire assemblies;
Locks, electric ignition, steering gear, transmission, or
combinations of such locks;
Mouldings of metal, with nails or prongs set in position,
lead filled or not;
Oil filter parts, namely: refill end discs and roll-seam
perforated tubes;
Ornaments and identification plates of metal, unplated, not
including finished or decorative mouldings, other than
for past models of automobiles and motor trucks;
Pipe lines of tubing, rigid, covered or not, with or
without fittings, and tubing therefor, other than for
automobiles and motor trucks;
Radiator shutter assemblies, automatic;
Radiator water gauges;
Reclining seat mechanisms;
Shackles, bearing spring;
Speedometers;
Spring covers of metal and closing strips or shapes there-
for;
Stampings, body, cowl, fender, front end, hood, instrument
board, shields and baffles, of plain or coated metal, in
the rough, trimmed or not, whether or not welded in any
manner before final forming or piercing, but not metal
finished in any degree, including such stampings
incorporating pierce or clinch nuts, but not including
door pillars, shields and baffles for current models of
automobiles and motor trucks;
Steering wheels, rims and spiders therefor, other than for
current models of automobiles and motor trucks;
Sun visor blanks of gypsum weatherboard;
Swivel seat mechanisms;
Tachometers, with or without tachographs, both electric
and gear driven;
Throttle, spark, choke, and hood lock release assemblies,
including buttons therefor;
Thermostatic controls for heavy-duty diesel motor trucks;
Torque converters;
Transmission overdrive units, auxiliary, and controls
therefor;
Universal joint ball assemblies, other than cross type;
Windshield and window wipers;
Parts of all the foregoing, including brackets, fittings
and connections therefor, other than the following:
Parts of speedometers, namely: speedometer cables, and
speedometer cable and housing assemblies;

Parts of thermostatic controls, namely: power element cups, guides, pistons, pellets, valves, flanges, top frames, bottom frames and springs;
Sintered powdered metal parts of auxiliary transmission overdrive units and controls therefor;
Parts of windshield and window wipers, namely: blades and refills for automobiles and motor trucks;

All of the foregoing when for use in the repair of goods enumerated in tariff items 41006-1, 41105-1, 42400-1 and 43803-1, or for use in the manufacture or remanufacture of repair parts therefor

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

Further, the Board recommends that the goods provided for in the above tariff item when used for original equipment purposes by manufacturers of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, shall be eligible for duty remission.

Tariff Items 43819-1, 43820-1 and 43821-1

Existing Tariff Provisions

Air cleaners;
Axles, front and rear;
Bell or clutch housings for vehicles having a gross vehicle weight rating of over 19,500 pounds;
Brakes;
Brake drums;
Cast aluminum road wheels for tube type tires using rim sizes larger than twenty inches by eight inches and for tubeless type tires using rim sizes larger than twenty-two and one-half inches by eight and one-quarter inches;
Clutches;
Drive shafts;
Fuel pumps
Hubs;
Hydraulic or fluid couplings;
Internal combustion engines over 348 cubic inches in displacement;
Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases, when the main assemblies are of a class or kind not made in Canada;

Magnetos;
 Power dividers or transfer cases;
 Rims for pneumatic tires;
 Spring shrouds, spring seats, and spring anchor plates of metal for vehicles having a gross vehicle weight rating of over 19,500 pounds;
 Steel road wheels;
 Steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over;
 Steering gears;
 Tandem axle suspensions, not to include springs;
 Transmission assemblies;
 Universal joints;
 Parts of the foregoing;

All of the foregoing when of a class or kind not made in Canada, and

43819-1 For the manufacture of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, and the chassis for same

1/1/84	Free	9.7 p.c.	27.5 p.c.	Free	8 p.c.
1/1/85		9.1 p.c.			
1/1/87		8.0 p.c.			

43820-1 For use as original equipment for motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, or for chassis for same, by a manufacturer of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, and during the year in which importation is sought, not less than forty per cent of the factory cost of production of such vehicles and chassis therefor, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

43821-1 For use in the repair of motor trucks, motor buses, fire fighting vehicles, ambulances, hearses and electric trackless trolley buses, or for chassis for same or for use in the manufacture of repair parts therefor, the rates of duty under this item shall be

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items 43819-1, 43820-1 and 43821-1.

It should be noted that for these three items the "not made in Canada" criterion applies not only to the specified products, but also to their parts. All of these items have reference to the same "not made" goods, the differences being in the end-use provisions. Because tariff items 43819-1 and 43820-1 apply to products for use as original equipment, they would be subordinate to items 95004-1 and 95006-1. Item 43821-1 applies only to "not made" goods used for repair purposes. The latter item is bound at Free, as is tariff item 43820-1. In the case of item 43819-1, which imposes no minimum qualification with respect to the British Commonwealth content of associated vehicles and chassis therefor, the bound (1987) MFN rate has been set at 8 p.c.

The regulations provided for the administration of these items are set forth in Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-5. This explains the method of determining the proportion of costs that can be claimed as being of British Commonwealth origin, and prescribes the declaration to be made by manufacturers of goods for which parts are claimed for entry under tariff item 43820-1. The said manufacturers have the option of entering the goods under tariff item 43819-1 and claiming a refund on an annual basis. Attention is also directed to Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-27, which sets out administrative policy with respect to the tariff classification and made-in-Canada status of brake shoe assembly kits for use in the manufacture or repair of motor vehicles (tariff items 41105-1, 41106-1, 43819-1, 43821-1, 43829-1 and 44205-1).

In the absence of the three referred tariff items, or when made in Canada, those goods qualifying under its wording would fall under tariff item 43829-1, with a bound rate of 9.2 p.c.; other products would be classified elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c.

Imports

In recent years the bulk of the imports admitted under the three tariff items have been classified to item 43821-1, with the annual value of goods entering under 43819-1 far exceeding that under 43820-1:

Value of Imports 1979-83 (\$'000)

<u>Tariff Item</u>	<u>Average 1979-82</u>	<u>1983</u>
43819-1	36,294	25,697
43820-1	8,474	5,109
43821-1	171,299	162,511

Submissions

The general submissions reviewed in the introductory section of this chapter are applicable in the case of these tariff items.

Among the users, the Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., noted that its members do not currently make use of tariff items 43819-1 and 43820-1 because of the existence of the Autopact, but as an insurance against possible changes in this agreement, it recommended that the items be retained. With respect to tariff item 43821-1 (encompassing goods for repair purposes) the MVMA advocated deletion of the "class or kind not made in Canada" qualification and the exclusion of the following goods, recognized as "made":

Air cleaners: for use with engines of less than 450 cubic inch piston displacement;
Brakes: air and hydraulic brakes for vehicles having a capacity of up to and including two tons;
Brake drums: for vehicles having a gross vehicle weight of 21,000 pounds and under;
Clutches: single plated clutches up to 13 inches in diameter;
Drive shafts;
Fuel pumps: for use in automotive engines with a piston displacement of up to and including 302 cubic inches, not electrically operated;
Hubs: for vehicles having a gross vehicle weight of 21,000 pounds and under;
Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases: when the main assemblies are not provided for in the duty-free item for "not made" goods;

Rims for pneumatic tires: 20" x 7.5" and under for tube type tires, and 22.5" x 6.75" and under for tubeless tires;

Steel road wheels: 24.5" and under in diameter;

Universal joints;

Parts of the foregoing.

Quoting published memoranda, the Automotive Industries Association of Canada (AIA) reminded the Board that only filters ("purifiers for gasoline") of the inline throwaway type and universal joints of the cross type had been ruled "made". The association also quoted superseded Departmental Memorandum D50-45 claiming "not made" status for starter-motors, generators and alternators when imported for past model service. These goods had been given an "uncertain" categorization in the staff appraisal. In addition, the AIA questioned the "made" designations attached to hydraulic or fluid couplings and to brake cylinders (as parts of brakes), and pointed out that "clutch facings of crude asbestos" (listed in the staff appraisal under "parts of clutches") are specifically provided for in tariff item 43833-1 (also 43832-1).⁽¹⁾

Volkswagen Canada Limited, Scarborough, Ont., in line with its general submission, asked that a non-dutiable ("not made") status be attached to the following products when for use in the repair and maintenance of motor trucks:

(1) These tariff items are worded as follows:

Brake linings and clutch facings, whether or not including metallic wires or threads, for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses, or chassis enumerated in tariff items 42400-1 and 43803-1:

43832-1 When made wholly or in part from crude asbestos of British Commonwealth origin

1/1/87	Free	11.3 p.c.	35 p.c.	Free	11.3 p.c.
--------	------	-----------	---------	------	-----------

43833-1 When made wholly or in part from crude asbestos, n.o.p.

1/1/87	11.3 p.c.	11.3 p.c.	35 p.c.	7.5 p.c.	11.3 p.c.
--------	-----------	-----------	---------	----------	-----------

Air cleaners, axles (front and rear), brakes, brake drums, constant velocity half shafts, fuel pumps, hub caps and rims for pneumatic tires, steering gears, tandem axle suspensions, transmission assemblies, and parts of the aforementioned.

In addition to these representations, which addressed themselves to a number of the products under review, the Board received submissions with respect to the following goods and/or parts thereof: air cleaners, brakes, brake drums, clutches, hubs, internal combustion engines, transmission assemblies, water pumps and universal joints.

Fram Canada Inc., Stratford, Ont., and Hastings Inc., Scarborough, Ont., informed the Board that they manufacture air filters (air cleaners) and certain of the component parts thereof, for use in motor vehicles of all kinds.

Rockwell International of Canada, Toronto, Ont., advised that it manufactures brakes for heavy duty motor trucks ranging in size from 15" x 3" to 16.5" x 7", for both manufacturing and repair purposes. Rockwell also noted that it produces the following component parts for such brakes: non-pressure housings, dust shields, straps, shoes with or without linings, camshafts, spiders, and backing plates.

With reference to the same general product area, Certified Brakes, a Lear Siegler Company, Rexdale, Ont., submitted that under an "exchange program" with customers in the United States, it imports brake shoe "cores" for relining and refurbishing. Instead of the present duty drawback procedures applying to such goods when exported after remanufacture, the company proposed that the used brake shoe "cores", when imported by a manufacturer of friction materials, should be allowed duty-free entry under a new tariff item.

In regard to a related product area Motor Wheel Corporation of Canada Ltd., Toronto, Ont., (a wholly owned subsidiary of Motor Wheel Corporation of Lansing, Michigan, U.S.A.), presented a submission supported by a current

ruling of Revenue Canada, Customs and Excise, claiming that centrifugal brake drums resulting from the application of sintered metal to the inside of the drum are of a class or kind not made in Canada. It indicated its desire to continue to import centrifugal brake drums classifiable under tariff item 43819-1 or 43821-1, depending on end use.

Wagner Brake Company Limited, Bramalea, Ont., an importer and distributor of various products for the aftermarket, indicated that its importations of brake drums and hubs were ruled by Revenue Canada, Customs and Excise, to be of a class or kind not made in Canada. Referring to tariff item 43821-1, the company stated that it would "not object" to deletion of the "not made" clause, and it favoured a replacement item listing brake drums and hubs, and parts of the foregoing, for use in the repair of motor trucks, motor buses, fire-fighting vehicles, ambulances, hearses and electric trackless trolley buses.

Merit Automotive Products Ltd., Toronto, Ont., which remanufactures water pumps (as parts of internal combustion engines), clutch assemblies and clutch plates, asked "that duty should be removed from all sizes of clutches and water pump cores, component parts for same, and new clutches and water pumps of all sizes going into the aftermarket, by being classified as goods of a class or kind not made in Canada". The company also proposed that the end-use coverage of tariff item 43821-1 should be broadened to include automobiles.

In a submission directed at tariff items 43821-1 and 43826-1, Sealed Power Corporation of Muskegon, Michigan, U.S.A., requested duty-free entry for all parts supplied by the company to which "not made" rulings had been attached - viz:

Pistons, piston rings, piston pin bushings, sleeve insert bushings, cylinder sleeves, valve stem keys, valve tappets, rocker arm assemblies, rocker arms, rocker arm shafts, camshafts, push rods, timing gears, oil pumps, intermediate shafts, water pumps, and fan clutches.

The company further proposed that, customs rulings to the contrary notwithstanding, duty protection should be removed from the "large areas" of piston ring specifications not made in Canada, in that piston rings "must be in precise sizes for the engine cylinders in which they are to be used" and "comprise too broad a range of production to be considered as one 'class or kind' grouping". In comment on a presentation by Hastings Inc. of Scarborough, Ont., Sealed Power requested the provision of more precise information respecting this company's reported production of piston rings in Canada. The provisional "made" designation accorded to lock rings, sleeve assemblies and valve springs in the staff appraisal was also questioned.

Among other parties making representations, Bundy of Canada Limited, Bramalea, Ont., indicated that it manufactures sintered powdered metal parts for transmission assemblies.

Hayes-Dana, Drive Train Division, Thorold, Ont., indicated that it produces universal joint bearing assemblies, which are parts of universal joints.

Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont., in a submission directed primarily at tariff item 43877-1, expressed concern with respect to the General Preferential Tariff rate of Free applying to items 43819-1, 43820-1 and 43821-1, stating: "If this is retained significant damage is expected to impact on the industry".

Conclusions and Recommendations

As a result of presentations made in response to the staff appraisal and in the light of information obtained subsequently, the Board is making some changes to the listing of commodities compiled in respect of tariff items 43819-1, 43820-1 and 43821-1 and to the made-in-Canada designations attaching thereto. The following goods, listed in the staff appraisal as "parts of internal combustion engines over 348 cubic inches in displacement", are now considered to have been misclassified and are accordingly deleted: air

cooling parts, including fan clutches; fuel filters; oil filters; parts of fuel and oil filters, including roll-seam perforated tubes; and engine covers. Likewise, stabilizer bars, specified in the staff appraisal as "parts of tandem axle suspensions, not to include springs", are now understood to be manufactured for use on motor vehicles other than those covered by the end-use provisions of tariff items 43819-1, 43820-1 and 43821-1.

Various other goods listed as "parts" in the staff appraisal have also been struck out as being more appropriately provided for elsewhere in the Customs Tariff. Thus, brake cylinders and slack adjusters (listed under "parts of brakes") are judged to be more properly classifiable under existing tariff items 43806-1 and 43807-1 (as "parts" of vacuum, hydraulic or air control assemblies"). Similarly, clutch facings of crude asbestos (listed as "parts of clutches") are now recognized by the Board as falling under tariff items 43832-1 and 43833-1.⁽¹⁾ In addition, it is considered that bearing assemblies (named as "parts of universal joints") should not be included in the revised nomenclature of tariff items 43819-1, 43820-1 and 43821-1, inasmuch as they are provided for in the Board's recommendation with respect to tariff item 42726-1.⁽²⁾

In regard to the goods properly classifiable under the review items, certain of those provisionally listed in the staff appraisal as "made" or of "uncertain" status are now considered to be "not made", whether for the purpose of original equipment, repair or remanufacture, for all relevant categories of vehicle. These goods are: steel road wheels over 24.5 inches in diameter; "steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over"; and lock rings, sleeve assemblies, valve springs, piston rings, starter-motors and generating equipment - all being "parts of internal combustion engines over 348 cubic inches in displacement".

(1) See supra, p. 236.

(2) Supra, p. 114.

Furthermore, "hydraulic or fluid couplings", provisionally designated in the staff appraisal as "made", are now considered to be "not made" other than for the manufacture and repair of heavy-duty trucks. Likewise, "linkages and controls for use with single plated clutches of up to 13 inches in diameter" are now understood to be "not made" for repair purposes, although gear shift levers and transfer shifters (two-to-four wheel drive), falling under the broader heading of "transmission controls", are reported to be "made" for the manufacture of all relevant vehicles. Finally, other than for the manufacture and current model service of heavy-duty trucks, a "not made" designation is attached to "tandem axle suspensions, not to include springs", previously categorized as of "uncertain" made-in-Canada status.

On the other hand, the following goods formerly lacking a definitive made-in-Canada identity, are now considered to be "made", without qualification: "air cleaners for use with engines having a piston displacement of over 450 cubic inches"; parts of such air cleaners, other than filter paper and galvanized screens; and "clutch cover and plate assemblies, and clutch driven member assemblies, for single plate clutches 13 inches in diameter, except fan clutches".

With respect to any unidentified parts of the goods encompassed by the tariff items under review, as well as any identified constituent parts whose made-in-Canada status remains "uncertain", the Board recommends that these should be classified for duty purposes in accordance with the classification of their parent products.

For the reasons already given in the review of tariff items 43806-1 and 43807-1,⁽¹⁾ the Board favours a reformulation of the end-use provisions of the referred items so as to exclude goods for use as original equipment but to include parts for use in remanufacturing. The OEM goods presently entering under tariff items 43819-1 and 43820-1 would thereby become subject, in 1987, to MFN rates of duty of 9.2 p.c. (under item 43829-1) and 10.2 p.c. However,

(1) Supra, pp. 211-13.

since, in the absence of change, the bulk of these goods would, in any event, be rated at 8 p.c. under tariff item 43819-1, and since the annual value of imports recorded under duty-free item 43820-1 has in all recent years been less than \$13 million, the increased liability to duty would not be great. Nevertheless, the Board feels that it would be appropriate to institute compensatory duty remission arrangements to offset the proposed imposition of duty on "not made" original equipment parts presently entering under the aforesaid tariff items when for use in the manufacture of motor vehicles not covered by the Autopact.

Further, in accordance with the Board's recommendations pertaining to tariff item 41106-1, the end-use provisions of the replacement item for tariff item 43821-1 should make reference to the self-propelled logging trucks of tariff item 41105-1. Manufacturers of such trucks would continue to enjoy duty-free access to "not made" metallic parts under tariff item 44205-1 (supra), if the Board's recommendations in regard to that item are adopted.

However, to provide also in the end-use coverage for passenger automobiles, as suggested by Merit Automotive Products Ltd., would seemingly constitute a much more far-reaching change, and one in regard to which the Board is unwilling to make any recommendation.

Similarly, a reformulation of rates under the General Preferential Tariff, as requested by Sheller-Globe of Canada Limited, with respect to these provisions and certain of the other referred tariff items,⁽¹⁾ is judged by the Board to lie outside the scope of its mandate in the present context.

Accordingly, in light of the foregoing, the Board recommends that tariff items 43819-1, 43820-1, and 43821-1 be deleted from Schedule "A" of the Customs Tariff and be replaced by the following tariff item covering "not made" goods for purposes of repair and remanufacture:

43821-1 Axles, front and rear;
Bell or clutch housings for vehicles having a gross vehicle
weight rating of over 19,500 pounds;

Brakes other than heavy-duty motor truck brakes ranging in size from 15 inches by 3 inches to 16.5 inches by 7 inches, and air and hydraulic brakes for current model service of vehicles having a capacity of up to 2 tons;

Brake drums;

Cast aluminum road wheels for tube type tires using rim sizes larger than 20 inches by 8 inches and for tubeless type tires using rim sizes larger than 22.5 inches by 8.25 inches;

Clutches other than single plated clutches of up to 13 inches in diameter;

Continuous control or constant velocity half-shaft drive shafts;

Fuel pumps for use on automotive engines with a piston displacement of more than 302 cubic inches, not electrically operated;

Hubs;

Hydraulic or fluid couplings other than for heavy-duty motor trucks;

Internal combustion engines over 348 cubic inches in displacement;

Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases;

Magnetos;

Power dividers or transfer cases;

Rims for pneumatic tires larger than 20 inches by 7.5 inches for tube type tires, and larger than 22.5 inches by 6.75 inches for tubeless tires;

Steel road wheels larger than 24.5 inches in diameter;

Steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over;

Steering gears;

Tandem axle suspensions, not to include springs, other than for current models of heavy-duty motor trucks;

Transmission assemblies;

Parts of the foregoing, other than:

Brake shoe assembly kits;

Parts of axles, namely: axle shafts for motor vehicles having a gross vehicle weight rating of 19,500 pounds or less;

Parts of internal combustion engines over 348 cubic inches in displacement, namely: timing chains; intake and exhaust valves, with the exception of sodium or sodium and mercury filled valves, for use in internal combustion engines, other than diesel;

(1) Tariff items 43810-1 to 43816-1 and 43824-1 to 43826-1 were also mentioned by Sheller Globe in this connection.

Parts of steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over, namely: idler arms; tie rod assemblies; tie rod ends;
Parts of transmission assemblies, namely: differentials, including axle housings; sintered powdered metal parts;

All the foregoing when for use in the repair of motor trucks, motor buses, self-propelled logging trucks as described in tariff item 41105-1, fire-fighting vehicles, ambulances, hearses and electric trackless trolley buses, or for chassis for same, or for use in the manufacture or remanufacture of repair parts therefor

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

Further, the Board recommends that the goods provided for in the above tariff item when used for original equipment purposes by manufacturers of motor trucks, motor buses, fire-fighting vehicles, ambulances, hearses and electric trackless trolley buses, or of chassis for same, shall be eligible for duty remission.

Tariff Items 43824-1, 43825-1 and 43826-1

Existing Tariff Provisions

Internal combustion engines of 348 cubic inches and under in displacement;
Parts of the foregoing;
All of the foregoing when of a class or kind not made in Canada, and

43824-1 For the manufacture of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, and the chassis for same

1/1/84	Free	9.7 p.c.	27.5 p.c.	Free	8 p.c.
1/1/85		9.1 p.c.			
1/1/87		8.0 p.c.			

43825-1 For use as original equipment for motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, or for chassis for same, by a manufacturer of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, and during the year in which importation is sought, not less than forty per cent of the factory cost of production of such vehicles and chassis therefor, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

1/1/84	Free	6.3 p.c.	27.5 p.c.	Free	5.5 p.c.
1/1/85		6.0 p.c.			
1/1/87		5.5 p.c.			

43826-1 For use in the repair of motor trucks, motor buses, fire fighting vehicles, ambulances, hearses and electric trackless trolley buses, or for chassis for same or for use in the manufacture of repair parts therefor, the rate of duty under this item shall be

1/1/84	Free	6.3 p.c.	27.5 p.c.	Free	5.5 p.c.
1/1/85		6.0 p.c.			
1/1/87		5.5 p.c.			

The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items 43824-1, 43825-1 and 43826-1.

It should be noted that for these three items, the "not made in Canada" criterion applies not only to the engines, but also to their parts. All of the items have reference to the same "not made" goods, the differences being in the end-use provisions. Because tariff items 43824-1 and 43825-1 apply to engines and parts thereof for use as original equipment, they would be subordinate to items 95004-1 and 95006-1. Item 43826-1 applies only to "not made" engines and engine parts for repair purposes. The latter item carries a bound (1987) MFN rate of 5.5 p.c., as does tariff item 43825-1. In the case of item 43824-1, which imposes no minimum qualification with respect to the British Commonwealth content of associated vehicles and chassis therefor, the bound rate has been set at 8 p.c.

The regulations for the administration of these items are set forth in Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-5. This explains the method of determining the proportion of costs that can be claimed as being of British Commonwealth origin, and prescribes the declaration to be made by manufacturers of goods for which engines and parts are claimed for entry under tariff item 43825-1. The said manufacturers have the option of entering the goods under tariff item 43824-1 and claiming a refund on an annual basis. As at the time of writing, only seven Canadian importers are officially qualified to use tariff item 43825-1. These concerns are the same as those qualified to enter goods under tariff items 43814-1 and 43815-1.⁽¹⁾

In the absence of the three referred tariff items, or when made in Canada, those goods qualifying under its wording would fall under tariff item 43829-1, with a bound rate of 9.2 p.c.; other products would be classified elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c.

Imports

In recent years, the bulk of the imports admitted under the three tariff items have been classified to item 43826-1, with the annual value of goods entering under 43824-1 far exceeding that under 43825-1:

Value of Imports, 1979-83 (\$'000)

<u>Tariff Item</u>	<u>Average 1979-82</u>	<u>1983</u>
43824-1	895	754
43825-1	178	21
43826-1	5,947	3,562

Imports under all of these items tended to fall off in 1982-83.

⁽¹⁾ See supra, p. 220.

Submissions

The general submissions reviewed in the introductory section of this chapter are applicable in the case of the tariff items under review.

None of the firms qualified to enter goods under tariff item 43825-1 made a submission to the Board in the present context.

The Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., in the only submission directly addressing tariff items 43824-1 and 43825-1, noted that its members do not currently make use of these provisions because of the existence of the Autopact, but it recommended that, as an insurance against possible changes in this agreement, the items be retained. With respect to tariff item 43826-1, the MVMA advocated deletion of the "class or kind not made in Canada" qualification.

The Automotive Industries Association of Canada (AIA), for its part, noted, with reference to the "made" designation attached to fuel filters in the staff appraisal, that, according to Customs and Excise, Departmental Memorandum D11-1-1 only gasoline purifiers of the inline throwaway type have been officially ruled "made". The association also quoted superseded Departmental Memorandum D50-45, claiming "not made" status for starter-motors, generators and alternators when imported for past model service. These goods had been given an "uncertain" categorization in the staff appraisal.

In an individual submission, Volkswagen Canada Inc., Scarborough, Ont., proposed the introduction of a new duty-free tariff item covering certain specified parts when for use in the repair and maintenance of motor trucks, including the following parts presently imported under tariff item 43826-1:

Truck engine parts for engines of 348 cubic inches and under in displacement - viz: crankcases, cylinder heads, valve guides, valve seats, crankshafts, pistons, piston rings, air cooling parts, distributors, and pulleys.

In a submission directed at tariff items 43821-1 and 43826-1, Sealed Power Corporation of Muskegon, Michigan, U.S.A., requested duty-free entry for all parts supplied by the company to which "not made" rulings had been attached - viz:

Pistons, piston rings, piston pin bushings, sleeve insert bushings, cylinder sleeves, valve stem keys, valve tappets, rocker arm assemblies, rocker arms, rocker arm shafts, camshafts, push rods, timing gears, oil pumps, intermediate shafts, water pumps, and fan clutches.

The company further proposed that, customs rulings to the contrary notwithstanding, duty protection should be removed from the "large areas" of piston ring specifications not made in Canada, in that piston rings "must be in precise sizes for the engine cylinders in which they are to be used" and "comprise too broad a range of production to be considered as one 'class or kind' grouping". In comment on a presentation by Hastings Inc. of Scarborough, Ont., Sealed Power requested the provision of more precise information respecting this company's reported production of piston rings in Canada. The provisional "made" designation accorded to lock rings, sleeve assemblies and valve springs in the staff appraisal was also questioned.

Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont., in a submission directed primarily at tariff item 43877-1, expressed concern with respect to the General Preferential Tariff rate of Free applying to items 43824-1, 43825-1 and 43826-1, stating: "If this is retained significant damage is expected to impact on the industry".

Conclusions and Recommendations

As a result of presentations made in response to the staff appraisal and in the light of information obtained subsequently, the Board is making some changes to the listing of commodities covered by tariff items 43824-1, 43825-1 and 43826-1 and to the made-in-Canada designations attaching thereto. The following goods are now considered to have been misclassified under the aforementioned items, and are accordingly deleted: air cooling parts,

including fan clutches; fuel filters; oil filters; and parts of fuel and oil filters. Lock rings, sleeve assemblies and valve springs are no longer regarded as "made"; while a "not made" identity is also attached to starter-motors, generating equipment and parts of the foregoing, as well as to piston rings (it being ascertained that the production interest of Hastings Inc. in this connection relates primarily to piston rings for passenger cars - not covered by the provisions of the review items).

With respect to any unidentified parts of the goods encompassed by the tariff items under review, the Board recommends that these should be classified for duty purposes in accordance with the classification of their parent products.

For the reasons already given in the review of tariff items 43806-1 and 43807-1,⁽¹⁾ the Board favours a reformulation of the end-use provisions of the referred items so as to exclude goods for use as original equipment but to include parts for use in remanufacturing. The OEM goods presently entering under tariff items 43824-1 and 43825-1 would thereby become subject in 1987 to MFN rates of duty of 9.2 p.c. (under item 43829-1) and 10.2 p.c. However, since in the absence of change, these goods would, in any event, be rated at 8 p.c. and 5.5 p.c. respectively, under tariff items 43824-1 and 43825-1, and since the combined annual value of imports under both items has never exceeded \$1.5 million, the increased liability to duty would not be very significant and in the Board's view, not such, as to warrant the institution of compensatory duty remission arrangements.

Accordingly, the Board recommends that tariff items 43824-1, 43825-1, and 43826-1 be deleted from Schedule "A" of the Customs Tariff and be replaced by the following:

(1) Supra, pp. 211-13.

43826-1 Internal combustion engines of 348 cubic inches and under in displacement;

Parts of the foregoing, other than: timing chains; intake and exhaust valves, with the exception of sodium or sodium and mercury filled valves for use in internal combustion engines, other than diesel;

All of the foregoing when for use in the repair of motor trucks, motor buses, fire-fighting vehicles, ambulances, hearses and electric trackless trolley buses, or of chassis for same, or for use in the manufacture or remanufacture of repair parts therefor

Free	5.5 p.c.	27.5 p.c.	Free	5.5 p.c.
------	----------	-----------	------	----------

Tariff Item 43861-1

Existing Tariff Provisions

Bumper face bars of bare metal, not finished in any degree after final forming, of a type not made in Canada, for use in the manufacture of motor vehicle bumpers

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, originally introduced into the Customs Tariff, under authority of section 273 of the Customs Act, on August 1, 1957. It has been renewed from time to time and is currently scheduled to expire on June 30, 1985. It will be noted that the made-in-Canada criterion is "type" rather than "class or kind". The item is not itself bound under GATT, but the relevant goods would be affected by bindings applicable to their parent items.

The principal alternative to tariff item 43861-1 is its parent, item 43829-1, which has a bound rate of 9.2 p.c. However, should the bumper face bars qualify for entry under Autopact item 95002-1, 95004-1 or 95006-1, they would be admitted free of duty, regardless of their made-in-Canada status. Further, when considered to be parts of front or rear bumpers (including

spring steel bumper plates), for use only in the manufacture or repair of motor truck bodies, motor bus bodies, electric trackless trolley bus bodies, fire fighting vehicles, ambulances or hearses, the pertinent goods would be admissible under tariff item 43842-1, to which free entry, bound under GATT, also applies.

Imports

The average annual value of imports under tariff item 43861-1 during the years 1979-82 amounted to \$302,000, down from the \$1.0 million recorded in 1977. Imports in 1983 totalled \$287,000.

Submissions

The recommendations contained in certain general submissions reviewed in the introductory section of this chapter would also cover the bumper face bars in question.

The Motor Vehicle Manufacturers' Association made the only submission which specifically addressed tariff item 43861-1. In noting that this temporary tariff item is utilized by Canadian suppliers to motor vehicle manufacturers, the MVMA recommended its retention, with consideration being given to the deletion of the "type not made in Canada" qualification.

Conclusions and Recommendation

Inasmuch as the bumper face bars at issue are considered to be "not made", the Board recommends retention of item 43861-1, the "not made" clause being deleted, as proposed by the MVMA. The item would then be worded:

43861-1 Bumper face bars of bare metal, not finished in any degree after final forming, for use in the manufacture of motor vehicle bumpers

Free

Free

35 p.c.

Free

Free

Tariff Item 43877-1

Existing Tariff Provisions

Materials, of a class or kind not made in Canada, for use in the manufacture of passenger automobiles, buses, motor trucks, ambulances or hearses, or chassis therefore, and parts and accessories and parts thereof, except tires and tubes, for all the foregoing

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, created under the authority of section 273 of the Customs Act. It has existed in its present form since December 22, 1977, when it replaced a similar item, with somewhat narrower coverage, originally introduced into the Customs Tariff on February 11, 1965. It is currently scheduled to expire on June 30, 1985. This item is not itself bound under GATT, but the goods admissible thereunder would be affected by the bindings of the tariff items which would be applicable in its absence, or to the same products when of a class or kind made in Canada.

The item is applicable to "not made" materials used in the production of the specified vehicles, and also of the vehicle parts and accessories and parts thereof. Only tires and tubes are excluded. Insofar as parts and accessories and parts thereof (other than tires and tubes), are concerned, tariff item 43877-1, unlike the Autopact items, is not limited to goods for original equipment manufacturing (OEM) purposes; it also has application to repair and replacement parts, accessories and parts thereof, for the after-market.

Because of the broad terminology of the item, it is impossible to list all the possible alternative tariff items and their bound rates, which would vary considerably.

Imports

The importance of item 43877-1 to the automotive industry is reflected in the value of imports thereunder. The average annual value of imports during the years 1979-81 amounted to about \$104 million. In 1982, imports were valued at the same figure, but in 1983 they increased sharply to \$178 million.

Submissions

The Motor Vehicle Manufacturers' Association (MVMA) pointed out that item 43877-1 is complementary to the Autopact-inspired 95000 series and the rationalization of the Canadian automotive industry brought about thereby. It further claimed that the "Canadian value added" provisions of the Autopact are powerful incentives to source materials in Canada when possible. It stated its belief that the "class or kind" criteria applied to materials are often too broad to differentiate between important aspects, characteristics, attributes or specifications of individual goods but none the less felt that the item provided significant benefit not only to MVMA members, but also to their suppliers. The association recommended against an eo nomine listing of the goods encompassed by the item on account of the sheer size of the task, and pointed out that 85-90 per cent of any duties payable on goods excluded from this item as "made" are recoverable as export drawback because they are wrought into exported goods. Therefore, it proposed that the item be retained without the "of a class or kind not made in Canada" qualification, thus permitting the duty-free entry of all materials used in the production of vehicles and their parts. However, the MVMA observed that it would not be against certain specific exemptions if the "not made" proviso in tariff item 43877-1 were to be deleted.

The Canadian Textiles Institute noted that while the "not made" qualification of the present item has "some value" to certain producers of textile materials for automotive use, it can cause difficulties for users

without benefit to Canadian manufacturers when, due to the need for exact specifications, a material ruled to be of a class or kind made in Canada is not available from domestic sources to these specifications. The Institute indicated that, in view of the provisions for the free entry of OEM parts under the Autopact, and the availability of export drawback in respect of the greater proportion of duties payable on imported materials, it would not object to the removal of the "class or kind" proviso from item 43877-1 insofar as textile products are concerned. Furthermore, it made no request for textile materials to be excepted from any general provision for the free entry of materials for the specified end uses, but asked, in the event of free entry being extended to textile materials "of a class or kind made in Canada", that there should be "vigorous auditing" of the use of tariff item 43877-1 to ensure compliance with its end-use requirement, that such a provision should continue to be on a temporary basis, "so that remedial action can be taken if there are unforeseen harmful results", and that "credit should be sought" from countries benefitting from this extension of the free-entry provision.

Duplicate Canada Inc., Oshawa, Ont., which is engaged in the production of automotive safety glass parts using a variety of materials not available from Canadian sources, noted the importance of tariff item 43877-1 in assisting Canadian parts producers to maintain a competitive position and requested retention of free entry for products it now imports under this item. The company felt that the lack of permanence of a temporary tariff item "would seriously inhibit forward planning of capital expenditures and marketing effort" and that its present needs could be met by a permanent provision worded:

Copper strip, solder-coated, one side; ceramic paint;
ceramic paint thinner; silver paste; silver paste thinner;
nylon-coated windshield radio antennae wire; polyvinyl
butyral sheeting, when used in the manufacture of wind-
shields, side windows and back windows for motor vehicles
Free: BP and MFN

However, it expressed preference for a less specific provision to allow for technological change - viz:

Materials used in the manufacture of windshields, side windows and back windows for motor vehicles
Free: BP and MFN

The company added that if a "not made" qualification should be felt desirable, one based on "type or size" would be preferable to one relating to "class or kind", being less broad in application.

FAG Bearings Limited, Stratford, Ont., which imports seamless cold-finished carbon steel pipes and tubes for the manufacture of automotive parts and bearings, stated that, even though 43877-1 is a temporary item, it has been in effect since 1965 and claimed that its elimination would cause "significant harm" to Canadian manufacturers who rely upon imported materials. The company contended that the variety of pipes/tubes to be named in an eo nomine item "could be overwhelming", and it suggested that the existing tariff item should be retained, with the words "type or size" substituted for "class or kind".

Representations with respect to filter media currently imported under tariff item 43877-1 were received from five manufacturers of air, fuel and oil filters - viz: Fram Canada Inc., Stratford, Ont.; Hastings Inc., Scarborough, Ont.; Purolator Products Limited, Mississauga, Ont.; Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont.; and Wix Inc., Pickering, Ont. In summary: all requested continued provision for the duty-free entry of the following goods required in specifications not available from Canadian production - (a) specially treated filter paper (mentioned by all five companies), and (b) galvanized screens (cited by Fram and Hastings). All stressed the critical importance, in the overall cost context, of duty-free access to the aforementioned materials. While indicating a preference for retention of the existing item, Purolator proposed, as an alternative, the creation of a simple tariff provision applying to "filter paper for use in the production of oil, air or fuel filters". Hastings and Sheller Globe suggested substituting the words "type or size" for "class or kind".

Hayes Dana Inc., Victor Products Division, St. Thomas, Ont., a manufacturer of gaskets, sought continued free entry for gasket materials currently entering under the item. However, the Board notes that such materials are now properly classified at present, under tariff items 43806-1 and 43807-1.

Bundy of Canada Limited, Bramalea, Ont., which manufactures small diameter tubing with a variety of coatings for automotive end use, asked for tubing having a diameter of 3/8" or less and a wall thickness of less than 0.28" to be considered as made in Canada and provided with duty protection; it also sought retention of free entry, under item 43877-1, for carbon steel sheet or strip, copper or copper alloy coated, as well as for a premixed iron powder containing a constituent known as Anchor Steel A-1000⁽¹⁾.

Canadian A.S.E. Limited, Downsview, Ont., a manufacturer of safety and seat back latch devices, advised the Board that it has been importing free under temporary item 43855-1 (not in the reference), hot and cold rolled steel sheet and strip, grade 4130, produced for fine blanking, spherodized, annealed and rolled up to .246" gauge to a tolerance of .008 or better. It claimed that steel conforming to these specifications is not available from Canadian manufacturers, but submitted evidence that the termination of item 43855-1 was being sought by certain Canadian steel producers. It sought continued free entry for the aforementioned goods, which could otherwise fall into tariff item 43877-1. Tariff item 43855-1, scheduled to expire June 30, 1985, is now limited to the grade 4130 steel cited by this importer.

With respect to c.c. 448-69-45 ("tubing, mechanical, alloy steel except stainless steel, seamless, new"), initially listed by the Board as "made", Canadian Timken Limited, St. Thomas, Ont., a manufacturer of bearings, pointed out that such steel, when of roller bearing quality, had been designated as "not made" under tariff item 44205-1 (supra); and the company sought for this distinction to be recognized in the present context.

(1) This is a trade name and is, therefore, unsuitable for use in Customs Nomenclature.

A number of submissions were directed primarily at goods otherwise classifiable under Group XII of the Customs Tariff - Products of the Chemical, Plastics and Allied Industries.

Thus, Uniroyal Chemical, Division of Uniroyal Ltd., Elmira, Ont., indicated its concern with tariff item 43877-1 both as a manufacturer of organic chemicals for the rubber and plastic industries and as an importer of other products for the same industries. It noted the difficulty which an eo nomine approach would encounter on account of the large number of materials involved. Moreover, it opposed elimination of the "not made in Canada" proviso as being potentially harmful to the company, and advocated retention of the item in its existing form.

The Canadian Chemical Producers' Association (CCPA) observed that item 43877-1 is not bound under GATT, and noted that the item covers many products otherwise classifiable in Group XII of the Customs Tariff. It argued that removal of all such products to Group XII (which is already based closely on the Brussels Tariff Nomenclature) would facilitate the transition to the new Harmonized System of the Customs Cooperation Council Nomenclature. More specifically, it recommended the following, with respect to goods otherwise classifiable in Group XII:

1. Products classified in Chapters 928 and 929

(a) Extend the application of Section 12 of the Customs Tariff to products falling in Chapters 928 and 929 by the addition of a section in the Chemical and Plastics Tariff Reduction Order parallel to Section 8 (the plastics end use section) i.e.

"During the period commencing on ... and ending on ..., the goods classified in Chapters 928 and 929 of Group XII of Schedule A to the Customs Tariff that could have been admitted free of duty by virtue of Sections 3, 4, 5, 6 or 7 if those goods had been entered under the British Preferential Tariff, shall be admitted free of duty when

(a) entitled to admission under the Most-Favoured Nation Tariff; and

(b) for use only in the manufacture of passenger automobiles, buses, motor trucks, ambulances, or hearses, or chassis therefore and parts and accessories and parts thereof, except tires and tubes, for all of the foregoing".

(b) Apply Section 11 of the Chemicals and Plastics Tariff Reduction Order on a selected basis to individual products where necessary.

2. Products classified in Chapters 915 and 939

(a) Apply Section 11 of the Chemicals and Plastics Tariff Reduction Order on a selected basis to individual products.

(b) Apply Section 273 of the Customs Act to individual products for specified end uses.

3. Products classified elsewhere than 915, 928, 929 and 939

Apply section 273 of the Customs Act to individual products for specified end uses.

The association recognized that, in this connection, "there is a great deal of detailed work required before a definitive recommendation can be made by the Board to the Minister", and it indicated that it would be willing to assist the Board and its staff, in any way it could, to facilitate this work.

The CCPA proposal was supported by Imperial Oil Ltd. of Toronto, Ont., Dupont Canada Inc. of Streetsville, Ont., and, insofar as the products of Chapter 939 are concerned, by Borg-Warner Chemicals, Borg-Warner (Canada) Limited, of Cobourg, Ont.

In a further submission presented at the final hearing on this reference, the CCPA indicated that unless a detailed listing of products to which section 273 would be applied could be developed before the conclusion of the enquiry, it would be preferable to retain the existing item, at least until the conversion of the Canadian Tariff to the Harmonized System. It was also claimed that the presence of duty is a "powerful inducement" to domestic parts manufacturers to buy available Canadian materials which, according to the CCPA, are usually sold at or about the US equivalent price without the duty. In the association's view, "Canadian content requirement ... is a secondary but not a compelling consideration in the purchasing decision".

With respect to statements made in the staff appraisal, the CCPA contended that drawback of duty on imported materials is "effectively available" only to the manufacturer and exporter of the goods as exported. Concerning the suggestion that only materials which are virtually identical to Canadian products have been excluded from admission under tariff item 43877-1, the CCPA claimed that this had not been the universal experience of its members; it noted that there had been instances where materials not produced in Canada had failed to obtain entry under the item but had subsequently been provided with duty-free access through the medium of temporary items in the 43800 series. In summary, the association strongly recommended that, "in whatever form, the provision for duty-free entry of materials for use in automotive end uses be applicable only when the material or a practical alternative is not made in Canada and that materials, when they become made, be dropped from that provision".

The Canadian Paint and Coatings Association, on behalf of its members, who import a wide range of resins, pigments and solvents used in the production of paints and coatings for the automotive industry, noted the complexity of pigment use - e.g. there are 370 organic red and 280 organic yellow pigments available and not all are substitutable. The association advocated retention of item 43877-1 "as is" until "a method is found that can keep its present advantage and at the same time satisfy the Minister's request" for specific product descriptions. It further indicated that a better solution might be achieved by further defining and refining the "availability" criterion.

In this context, Dominion Colour Company Ltd., Toronto, Ont., provided the Board with a list of pigments now produced by that company, as well as of those for which future production was planned. By implication, it sought to retain protection on "made" goods.

National Rubber Company, Division of the Allen Group Canada Ltd., Toronto, Ont., which manufactures rubber automotive parts, referred to instances where the characteristics of Canadian-made materials for use in the manufacture of rubber goods do not enable the users to meet OEM specifications, and it sought freedom to import, under item 43877-1, perhaps under an "availability" concept, materials "of a class or kind made", when Canadian products do not meet desired specifications. The company also stated that it found the original proposals of the Canadian Chemical Producers' Association (see supra) acceptable.

W.R. Grace & Co. of Canada Ltd., Polyfibron Division, Lasalle, Que., manufacturers of battery separators, requested continued duty-free access to phenol-formaldehyde resin impregnated battery separator paper, imported under item 43877-1. It suggested a new item, or pair of items:

Paper, battery separator, phenol-formaldehyde resin impregnated

a) Not made in Canada - MFN Free

b) Made in Canada - MFN 10.2 p.c. (1987)

Canadian Fram Limited, Chatham, Ont., an original equipment automotive parts manufacturer specializing in automotive air cleaner assemblies, engine fan cooling products and engine emission control devices, on behalf of its suppliers (unnamed) of plastic parts, pointed out that in order to meet specifications, its suppliers must import materials, often proprietary products, not available from Canadian production. The company urged that, for competitive reasons, these materials (unspecified) should continue to be duty free until approved equivalent materials become available from Canadian suppliers.

BASF Canada Inc., Montreal, Que., which, as a wholly-owned subsidiary of BASF Aktiengesellschaft of West Germany, is engaged in the manufacture and distribution of various chemicals, dyestuffs and plastics, urged that tariff protection be maintained in relation to a submitted list of products made by the company or its associate, Badische Canada Ltd., Arnprior, Ont., which are or can be used in the production of automotive vehicles. It further claimed

that there are a large number of products which, although not manufactured in Canada, compete directly with the firm's range of plasticizer products and, in order "to cover the competing chemicals", it proposed that the following be included in the "Made in Canada" listing:

- a) end use: "vinyl plasticizers" or "plasticizers for PVC".
- b) composition: phthalates, terephthalates, adipates, maleates, trimellitates or azelates of aliphatic alcohols or mixtures of alcohols containing a carbon chain between 4 and 13 inclusive.

Monsanto Canada Inc., Mississauga, Ont., in initial and supplementary submissions, requested that provision be made for the continued duty-free entry on a temporary basis of C-7, C-9 and C-7, C-9, C-11 alcohol mixtures, and alkyl benzyl phthalate (Santicizer 261). It also further pointed out that polyvinyl butyral sheeting, a product of its U.S. parent company, and polyvinyl butyral film are already admissible duty free under tariff item 93902-81.

Domtar Inc., Montreal, Que., submitted that sodium lauryl sulphate (falling under c.c. 407-95-90: "fatty alcohols nes, including sulphonated") is made in Canada by Domtar as well as by several other producers. In the company's opinion, such sulphated fatty derivatives of fatty alcohols are properly classifiable under tariff item 93402-1 as organic surface-active agents.

Procan Automotive Inc., St. Laurent, Que., sought continued free entry for a petrochemical wax, now imported under tariff item 43877-1, used in the manufacture of thermostats.

Harrisons & Crosfield (Canada) Ltd., Toronto, Ont., requested the removal of the current duty on chromium oxide, which it no longer produces in Canada.

Borg-Warner Chemical, Borg-Warner (Canada) Limited, Cobourg, Ont., supported, insofar as the products of Chapter 939 are concerned, the CCPA proposal. It indicated that there are (unnamed) products listed as "not made", for which the company's products might be acceptable substitutes, and it requested that no action be taken that would preclude the company from contesting such classifications.

Durez Plastics and Resins, CanadianOxy Chemicals Ltd., Fort Erie, Ont., contended that as phenol-formaldehyde resins suitable for automotive use are made in Canada, steps should be taken to ensure that such goods are classified under dutiable tariff item 93901-10.

Conclusions and Recommendations

Little additional information was elicited in response to the staff appraisal with respect to the made-in-Canada status of goods or commodity classes relevant to this tariff item. However, as a result of further enquiries and in the light of information compiled in connection with other referred tariff items, the Board is proposing several modifications to the provisional made-in-Canada designations of the pertinent goods.⁽¹⁾ Thus, a "not made" identity is now attached to all - rather than part - of c.c. 375-45-90 ("polyester fabric, 95% & over, woven broad, n.e.s."), while a "made" rating replaces the former "uncertain" standing of c.c. 451-49-90 ("aluminum/aluminum alloy fabricated materials n.e.s."). With regard to "gasket stock of two or more materials", listed against c.c. 496-52-20 as "not made", the Board, per its review of tariff items 43806-1 and 43807-1,⁽²⁾ would now categorize as "made" (and more properly assign to c.c. 325-20-60 and 474-24-20) those stock materials consisting of combinations of synthetic rubbers, such as styrene-butadiene, and asbestos.

(1) Staff Appraisal, pp. 99-105.

(2) Supra, p. 210.

Turning to pigments (various commodity classes from 427-13-20 to 427-99-89), the Board draws attention to its remarks, under tariff item 86400-1, on the made-in-Canada status of inorganic pigments.⁽¹⁾ Similar considerations apply in respect of organic pigments. Consequently, the Board finds that it has little option, if it wishes to be consistent, but to follow the same procedure here and recommend, for pigments only, the retention of a "made/not made" distinction.

The extensive use made of tariff item 43877-1, the wide ranging varieties of materials admitted thereunder, the difficulties of defining "class or kind" in situations where the eventual customer often prescribes rigid specifications, and the relationship of the item to the terms of the "Autopact", are all important factors in the consideration of the future of this item. Further, the Board is aware that the procedures used to determine which commodity classes should be studied would have a natural bias towards "not made" goods, given the wording of the item. Classes relating to goods excluded from the item because they are of a class or kind made in Canada would be less likely to appear in the relevant statistics. The Board is also aware that many of the classes, to which it has assigned a status of "made", are broad enough to comprehend both "made" and "not made" products.

Since its institution at the time of the coming into force of the Autopact, the tariff item has been in the Customs Tariff on a temporary basis, suggesting recognition of the need for some degree of flexibility in the area. Further, the item is not bound under GATT, although Canada did include it in a list of items for which it undertook to seek a replacement for the "not made in Canada" proviso. Given the impracticality of compiling, within an acceptable time span, definitive eo nomine listings of all pertinent materials, and given also the present reliance upon non-domestic sources for many of the goods at issue, there would appear to be some merit in the viewpoint that the "not made" restriction could be removed, as being offset to some extent by drawbacks and Canadian content requirements. On the other hand, the Board is not unmindful of the difficulties purportedly experienced

(1) Supra, pp. 66-7.

in obtaining drawbacks in respect of goods which have passed through several hands between time of importation and the time of export as finished products. Similar difficulties arise in tracing Canadian content through different stages.

For users of the item, removal of the "not made" qualification would eliminate tariff aggravations engendered by highly specific product requirements. However, the Board notes that material specifications can be used not merely to ensure uniformity of finished products, but also to direct purchasers to preferred (foreign) sources of supply. The retention of duty on "made" goods would provide at least some inducement for consideration to be given to Canadian suppliers. Further, the blanket removal of the "not made" proviso might well have prejudicial consequences for those Canadian producers whose products have not come to the Board's attention.

In general terms, the goods falling under tariff item 43877-1 can be divided into three groups - viz: products of the metal-working industries; products of the chemicals, plastics and allied industries; and products of other industries. Evidence before the Board suggests that the bulk of metallic materials - particularly in the case of iron, steel, aluminum and copper - are available from Canadian manufacturers. In the other instances, materials appear to be drawn more largely from foreign sources.

With respect to the metallic products, the Board proposes that the existing situation is, in effect, recognized by eliminating from the replacement item most provisions for materials consisting wholly or in chief part by weight of iron or steel, aluminum or copper, or of alloys based on any of the foregoing. In a few cases, this would deny free entry to recognized "not made" products which were the subject of representations to the Board. A special item is recommended to take care of these goods.

The products of the chemicals, plastics and allied industries, as noted in the representations of the CCPA, fall into two groups - those which are, and those which are not, otherwise classifiable under tariff items to

which section 12 of the Customs Tariff is applicable. For goods falling under items subject to section 12, a mechanism already exists for allowing free entry to those goods generally considered "not made", through the Chemicals and Plastics Tariff Reduction Order (P.C. 1981-2857 of October 15, 1981, as amended). This order can be easily and readily extended to products intended for use in the motor vehicles industry, and it is so recommended.

For the other products of the chemicals, plastics and allied industries - primarily mixtures such as surfactants, pigments, paints, and various preparations otherwise falling under Chapter 938 of Group XII of the Customs Tariff - the Board is faced with the same dilemma as it faces with respect to goods produced by other industries. In most instances, products of concern, either to the producers or users, are not sufficiently clearly defined to determine the parameters of appropriate "classes or kinds". To deny protection on certain classes of "made" goods because they form part of a broader category of "not made" goods, or to impose duty on "not made" goods falling within a broader "made" category, is to inflict apparently unnecessary hardship on either the Canadian manufacturers or the Canadian users. The Board believes that the bulk of the individual products with which it is here concerned are not made in Canada, but that there are numerous exceptions. Organic pigments provide an example of the problem. Taken as a single class, there is undoubtedly sufficient Canadian production of such pigments to justify a "made" ruling. There are, however, innumerable individual pigments of differing compositions and colours, many of which are not produced in Canada. For statistical purposes, subdivisions are made on the basis of colour, but arbitrary lines have to be drawn as one colour shades into another, e.g. from yellow to orange to red to maroon to blue and green. A made-in-Canada determination with respect to a particular colour might well depend on where the line was drawn between that colour and another one. Similar difficulties arise when colours are divided upon the basis of chemical composition. On the other hand, to deal with individual pigments would, in many instances, breach confidentiality and in any case would overlook the fact that a number of pigments, differing slightly in composition or even colour,

some "made" and some "not made", might well be competitive over a certain range of uses. These problems also arise with respect to other classes of products when there are small or greater differences in composition, colour or other characteristics. Consequently, while the Board has decided to recommend free entry for most of the products at issue, it has decided, in certain instances, and often on a quite arbitrary basis, to propose that Canadian producers be afforded protection equivalent to that which they now enjoy.

Thus, the Board recommends:

1. That the Schedule to the Customs Duties Reduction Regulations (Chapter 460, Consolidated Regulations of Canada, as amended) be further amended by revoking tariff item 43877-1.

2. That the Chemicals and Plastics Tariff Reduction Order (P.C. 1981-2857, of October 15, 1981, as amended) be further amended by making provision in subsection (b) of section 8 for the goods classified in Chapters 928 and 929 of Group XII of Schedule "A" to the Customs Tariff when:

for use in the manufacture of passenger automobiles, buses, motor trucks, ambulances or hearses or chassis therefor, and parts and accessories and parts thereof, except tires and tubes, for all the foregoing.

3. That Schedule "A" to the Customs Tariff be amended by inserting therein the following tariff items, enumeration of goods and rates of duty.

Materials, not including goods otherwise classifiable under any tariff item subject to section 12 of the Customs Tariff, nor goods, other than those enumerated below, wholly or in chief part by weight of iron or steel and alloys thereof, aluminum and alloys thereof or copper and alloys thereof;

All the foregoing when for use in the manufacture of passenger automobiles, buses, motor trucks, ambulances or hearses, or chassis therefor, and parts and accessories, and parts thereof, except tires and tubes, for all of the foregoing

43877-1	Other than the following				
	Free	Free	35 p.c.	Free	Free
43877-2	Iron powder produced from scrap steel without the addition of cast iron; Pipes or tubes, carbon steel, seamless, cold-rolled; Screening, galvanized, for filter media; Sheet or strip, carbon steel, copper or copper-alloy coated; Strip copper, solder-coated on one side; Windshield radio antenna wire, nylon-coated				
	Free	Free	35 p.c.	Free	Free
43877-3	Adhesives based on synthetic resins				
	12.5 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.
43877-4	Automotive board in sheets, namely: 70 point (0.07 inch) black lined, 3-ply, laminated, not coated; and 120 point (0.12 inch) particle chipboard				
	6.5 p.c.	6.5 p.c.	35 p.c.	Free	6.5 p.c.
43877-5	Gasket stock consisting of compressed asbestos, whether or not combined with styrene-butadiene or other synthetic rubbers				
	Free	8 p.c.	30 p.c.	Free	8 p.c.
43877-6	Non-metallic conduit and tubing for electrical wiring				
	13.5 p.c.	13.5 p.c.	30 p.c.	9 p.c.	13.5 p.c.
43877-7	Fibreglass insulation products				
	Free	11.3 p.c.	25 p.c.	Free	11.3 p.c.
43877-8	Organic pigments, of a class or kind made in Canada				
	10 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.

43877-9	Inorganic pigments, of a class or kind made in Canada				
	10 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.
43877-10	Asbestos paper				
	Free	8 p.c.	25 p.c.	Free	8 p.c.
43877-11	Paints, not including paints in aerosol or in tubes, nor paste paints or ceramic paints; stamping foils; stains and thinners other than ceramic or silver paint thinners				
	9.2 p.c.	9.2 p.c.	25 p.c.	6 p.c.	9.2 p.c.
43877-12	Plastics compounding plasticizers and stabilizers, formulations, not to include tin-based stabilizers for synthetic resins				
	10 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.
43877-13	Rubber compounding agents, formulated, not to include fire retardants, accelerators, retarders, antioxidants, inhibitors or ultra-violet absorbers, nor reclaiming agents or plasticizers of petroleum origin				
	10 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.

Tariff Item 44560-1

Existing Tariff Provisions

Lamp bases of metal, of a class or kind not made in Canada, for use in the manufacture of incandescent electric lamps for motor vehicles

Free	Free	30 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, originally introduced into the Customs Tariff on February 1, 1964, under authority of section 273 of the Customs Act, and currently scheduled to expire on June 30, 1985. The item is

not itself bound under GATT, but the goods to which it applies would be affected by bindings applicable to the tariff item or items to which the goods would revert if ruled "made" or if this item should be allowed to expire.

The principal alternative item is tariff item 44524-1 ("electric apparatus and complete parts thereof, n.o.p.: other than the following"). This has a (1987) bound MFN rate of 10.2 p.c. Another possible alternative is tariff item 43829-1 ("parts, n.o.p., ... for automobiles, motor vehicles ..."), which has a bound rate of 9.2 p.c. However, should the lamp bases be imported under the appropriate circumstances, they could qualify for free entry under Autopact tariff items 95002-1, 95004-1 and 95006-1.

Imports

The annual value of imports under tariff item 44560-1 averaged \$1.1 million in 1979-81, having risen from \$544,000 in 1976. In 1982, imports totalled \$1.2 million, while in 1983 they declined slightly to \$1.1 million.

Submissions

The proposals contained in certain general submissions reviewed in the introductory section of this chapter would also cover the lamp bases of metal of tariff item 44560-1.

The Motor Vehicle Manufacturers' Association made the only submission which specifically addressed tariff item 44560-1. In noting that this temporary tariff item is utilized by Canadian suppliers to motor vehicle manufacturers, the MVMA proposed its retention, consideration being given to the deletion of the "class or kind not made in Canada" qualification.

Conclusions and Recommendation

No evidence to the contrary having come to the attention of the Board, it is concluded that metal lamp bases of the kind covered by item

44560-1 are not made in Canada. Accordingly, in concurring with the recommendation of the MVMA, the Board proposes the establishment of a replacement item worded as follows:

44560-1 Lamp bases of metal for use in the manufacture of incandescent electric lamps for motor vehicles

Free Free 30 p.c. Free Free

Tariff Item 97052-1

Existing Tariff Provisions

This drawback item relates to goods used in the production of motor vehicles, motor vehicle accessories and motor vehicle parts; accessories and parts for both original equipment and repair and replacement purposes are included. The item is as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Machines, precision instruments, apparatus, and control panels therefor; all of the foregoing of a class or kind not made in Canada; accessories and attachments for use with the aforementioned machines, precision instruments and apparatus; parts of all the foregoing, not including consumable tools.	<p>When used</p> <p>(a) in the plants of manufacturers of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof for the manufacture of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof; or</p> <p>(b) for the manufacture of:</p> <p>(i) dies, jigs, fixtures, moulds, and patterns therefor;</p> <p>(ii) cutting tools and parts thereof, for use with machines;</p>

all of the foregoing for use in the production of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof

Portion of duty payable as drawback: 100 p.c.

As with all drawback items, there are four components of this item:

1. The item number;
2. The enumeration of goods on which drawback may be granted;
3. The circumstances under which the goods are subject to drawback; and
4. The rate of drawback.

In this particular item, components 1 and 4 are straightforward.

Component 2 provides that drawback may be paid on:

- (a) (i) machinery, (ii) precision instruments, and (iii) apparatus - all the foregoing, of a class or kind not made in Canada;
- (b) control panels, of a class or kind not made in Canada, for use with the goods in (a);
- (c) accessories and attachments, regardless of their own made-in-Canada status, for use with the goods in (a); and
- (d) parts of the goods in (a), (b), and (c), regardless of their own made-in-Canada status, but not including consumable tools.

Strictly speaking, the Board's mandate in this reference is to examine the possible alternatives to the "not made in Canada" provisions in (a) and (b) above.

Component 3 requires that the goods be used either:

- (a) for the in-plant manufacture of motor vehicles, motor vehicle parts or motor vehicle accessories and parts thereof; or
- (b) without restriction as to location, for the manufacture of dies, jigs, fixtures, moulds and patterns therefor, or cutting tools and parts thereof, for use with machines, when the foregoing dies, etc., are to be used in the production of motor vehicles, motor vehicle parts or motor vehicle accessories and parts thereof.

Unlike the other tariff items in this study group, all of which relate to automotive parts, drawback item 97052-1 provides relief from import duties imposed on certain goods used in the production of motor vehicles, parts and accessories. Although not incorporated into the Autopact, the

provisions of the item are considered, by the industry in Canada, to be complementary to that agreement and to be designed to assist Canadian producers in competing in what is essentially a free-trade market, at the manufacturing level, in new vehicles and original equipment parts.

However, imports of machinery and equipment for use in the automotive industry may be eligible for duty relief under various mechanisms - viz:

(i) Under the provisions of the Machinery Program automotive machinery and associated articles of equipment classified under relevant tariff items (42700-1 et al) may qualify for remission of duty when not available from production in Canada.⁽¹⁾

(ii) The provisions of Order in Council P.C. 1973-1744 (dated 19 June, 1973) authorize the Machinery and Equipment Advisory Board (MEAB) to consider applications for remission of duty "on machinery and equipment for use in the manufacture of parts and accessories and parts thereof for use as original equipment for motor vehicles, and in the manufacture of tooling for the production of such parts and accessories and parts thereof". This order enables the MEAB to review applications for remission of duty in respect of categories of automotive machinery and equipment which fall outside the scope of Machinery Program tariff items; as well, in respect of goods otherwise dutiable under such items, it permits the accepted "availability" criteria (based upon domestic manufacturing "capability") to be set aside, in appropriate instances, "because of the need to meet tightly scheduled automotive commitments".

(iii) Alternatively, in relation to importations of automotive machinery and equipment which have not been granted remission of duty under the provisions of either the Machinery Program or P.C. 1973-1744, duty drawback may be available under tariff item 97052-1, provided that the goods are deemed to be of a class or kind not made in Canada.

(1) See supra, pp. 22-4.

In summary, although there is manifestly a considerable degree of overlap in the substance of these various provisions for duty relief, tariff item 97052-1 would appear to cover a significantly wider range of relevant goods than either of the other two mechanisms, as well being administered with reference to the less restrictive criterion of "class or kind made/not made" as opposed to that of "production capability". In turn, P.C. 1973-1744, by promoting the concept of "availability" within a limited time-frame, provides importers with a surer access to duty relief, in appropriate instances, than can be obtained through the normal mechanism of the Machinery Program. Moreover, the reference to "equipment" in the terminology of this Order in Council, implies a broader coverage of relevant goods than is provided for under tariff item 42700-1 et al. However, the use of P.C. 1973-1744 is restricted to goods required for original equipment manufacturing purposes only, whereas tariff item 97052-1 and the Machinery Program items contain no such limitation.

In addition to the above mechanisms for providing duty relief, it should be noted that tariff item 44532-1 applying to "electrical instruments and apparatus of precision of a class or kind not made in Canada", is scheduled under the GATT to become duty free in 1987.

Figures made available to the Board indicate that in the three fiscal years 1978/79 to 1980/81, an annual average amount of \$11.3 million was paid as drawback of duties under tariff item 97052-1. In 1981/82, the total rose to just fractionally under \$21 million, and in 1982/83, some \$10.3 was paid. Given that many of the goods on which drawback was paid probably carried rates of duty of between 10 and 15 per cent ad valorem, this would suggest that in 1981/82, the peak year, drawback was granted on goods valued at approximately \$170 million at time of importation. It is also noteworthy that in each of the aforementioned fiscal years more than 70 per cent of the total amount of drawback paid out in respect of all items included in Schedule "B" of the Customs Tariff, was authorized under this one item.

Submissions

The Motor Vehicle Manufacturers' Association (MVMA) claimed that drawback item 97052-1 is an essential complement to the Autopact and is much broader in scope than the Machinery Duty Remission Program. The association indicated that the "availability" concept used in the administration of the Machinery Program and applied under the Order-in-Council procedures, sometimes caused difficulty with respect to the free entry of parts, which do, however, qualify for drawback. It further stated that its members tended to use the drawback item in preference to the Order-in-Council procedures. In the association's view, a "more acceptable alternative" to broadening the provisions of PC 1973-1744 would be to retain the drawback item, preferably without the restrictions imposed by the "not made" clause. Thereby, it was contended, the competitive position of Canadian automotive exporters would be "enhanced".

The Rubber Association of Canada supported the general position of the MVMA, on the grounds that the drawback item helps to minimize costs of motor vehicle manufacture while providing tariff protection to Canadian producers of machinery and equipment. It proposed retention of the current wording of the item, even though a shift to an "availability" concept would assist the rubber industry. The association noted that while the mechanism provided by P.C.1973-1744 might "meet the needs" of the rubber industry, its member companies lacked "exposure" to this Order in Council. Without additional information, it was not prepared to accept it as providing "a reasonable alternative" to existing tariff item 97052-1.

The Automotive Industries Association, speaking on behalf of parts manufacturers, made no specific proposal with respect to this item, but endorsed the general positions taken by the MVMA and the Rubber Association.

Retention of the item (with or without the "not made in Canada" clause) was also advocated in a number of individual submissions from manufacturers of vehicles, original equipment parts and replacement parts.⁽¹⁾ In general, these pointed to the value of the drawback provisions in reducing machinery and tooling costs incurred in the production of goods for an export-oriented industry. Running through these submissions was the view that if, in order to eliminate the "class or kind not made in Canada" provision, item 97052-1 had to be deleted, it should be replaced by some kind of "availability" arrangement, either through a broadening of P.C. 1973-1744 beyond the original equipment market or by an extension of the Machinery Program to cover additional items of equipment. One company (Canadian Fram Limited of Chatham, Ont.) proposed extending the coverage of any relief program to include equipment used for purposes of research and development. It was also represented by some companies that constant changes in manufacturing processes would soon render obsolete any eo nomine listing of "made" goods. A general preference for the drawback item over P.C. 1973-1744 was expressed, it being claimed that the latter procedure was often subject to long delays.

An opposing viewpoint, advocating elimination of tariff item 97052-1, was advanced by F. Jos. Lamb Company Limited of Windsor, Ont., which described itself as "Canada's largest original equipment designer and manufacturer of primarily automated metal working transfer line systems and assembly machines incorporating welding" and as "one of Canada's largest original equipment designers and manufacturers of primarily automated parts handling equipment and industrial parts cleaning equipment". In making its case, the company reminded the Board that item 97052-1, being a Schedule "B" tariff provision, is not bound under GATT, and its elimination would have no effect on rates of duty, while other programs now available would provide any necessary relief.

(1) In submissions received from: Volkswagen Canada Ltd., Scarborough, Ont.; Duplate Canada Inc., Toronto, Ont.; Fram Canada Inc., Stratford, Ont.; Wix Inc., Pickering, Ont.; Canadian Timken Limited, St. Thomas, Ont.; Bundy of Canada Limited, Bramalea, Ont.; Rockwell International of Canada Ltd., Toronto, Ont.; Hastings Inc., Scarborough, Ont.; Euclid Canada Limited, Guelph, Ont.; FAG Bearings Ltd., Stratford, Ont.; National Rubber Company Limited, Toronto, Ont.; and Canadian Fram Limited, Chatham, Ont.

It was noted that deletion of the item would end drawback on "made" parts of "not made" goods, a problem to the tooling industry. In the absence of detailed information, other approaches were regarded as impractical. In any case, the company sought to have excluded from any replacement provision the goods which it produced. These were listed by commodity codes in the brief. Lamb's submission was supported by the Canadian Tooling Manufacturers Association.

Conclusions and Recommendation

The Board concurs in the view that it would be virtually impossible to replace tariff item 97052-1 with comprehensive eo nomine listings of goods on which drawback would be allowed. The value of drawback payments, however, suggests that the item is of significance to Canadian producers who compete in what is essentially (either through the Autopact or through drawback provisions on exported goods) a duty-free market. The Board feels that the provisions of the item should be continued in one form or other but also considers that some notice should be taken of the objections raised respecting the granting of drawback on "made" parts of "not made" goods.

The Board finds that there are two almost equally acceptable courses of action with respect to the disposition of tariff item 97052-1: to retain the existing tariff provisions, appropriately modified, so as to apply the "not made" restrictions to all relevant goods and parts thereof; or to delete the item in its entirety, and to expand the coverage of Order in Council P.C. 1973-1744 so as to include machinery and equipment for use in the production of goods used for repair and replacement purposes in the motor vehicle aftermarket. The latter change could be effected simply by deleting the words "for use as original equipment" from clause b(ii) of the order, and by deleting the words "original equipment" from "eligibility" clause B(1). In the event of such a solution being adopted, the description "machinery and equipment" would be broad enough to encompass all the goods presently included in the drawback item.

The Board feels that there is no marked balance of advantage favouring one rather than the other of the aforementioned alternatives. Representations by the business community, however, have indicated a decided preference for retention of the item.

Accordingly, it is the Board's recommendation that drawback item 97052-1 be retained, with the following modified wording:

<u>Goods</u>	<u>When Subject to Drawback</u>
Machines, precision instruments, apparatus, control panels therefor and accessories or attachments for use therewith; parts of all the foregoing, not including consumable tools; all the foregoing of a class or kind not made in Canada.	<p>When used</p> <p>(a) in the plants of manufacturers of motors vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof for the manufacture of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof; or</p> <p>(b) for the manufacture of:</p> <p>(i) dies, jigs, fixtures, moulds, and patterns therefor;</p> <p>(ii) cutting tools and parts thereof, for use with machines;</p> <p>all of the foregoing for use in the production of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof</p>

Portion of duty payable as drawback: 100 p.c.

CHAPTER 8. SUMMARY OF RECOMMENDATIONS

The Board's recommendations, arising out of Phase II of Reference No. 157, have been set forth in the appropriate places in Chapters 4 to 7. In this chapter, they are brought together, for ease of reference, in conjunction with certain additional information, including tables illustrating the relationships between existing tariff items recommended for amendment or deletion and the new items recommended by the Board.

For a number of the items included in, or related to, this phase of the inquiry - and consequently, for some of the Board's recommended items - staged reductions in duties are taking place in accordance with the obligations assumed by Canada in the "Tokyo Round" of Multilateral Trade Negotiations. In Chapters 4 to 7 the only rates given are those expected to be in, or come into, effect at the beginning of 1987. In this chapter, rates for 1985, where different from those in 1987, are also given. In one instance (recommended item 40700-1), where the Board has recommended an entirely new rate for 1987, a rate for 1986 is also shown.

Of the 52 tariff items studied by the Board in this phase of the inquiry, there were, at the inception of the reference, 15 items which had been established on a temporary basis under authority of the Customs Duties Reduction Regulations pursuant to section 273 of the Customs Act. Subsequently, seven of these items (viz: 32669-1, 35235-1, 56255-1, 85800-1, 86000-1, 86400-1 and 93819-14) have been made statutory. The Board now proposes that, appropriately modified, a further six of the temporary items (viz: 43861-1, 43877-1, 44560-1, 44569-1, 56705-1 and 92944-2) should also be given statutory status. The remaining temporary items are 39225-1 and 56710-1; together with non-referred items 32646-1 and 32647-1, the Board would allow these to expire.

Use of the authority provided by section 8 of the Chemicals and Plastics Tariff Reduction Order is envisaged by the Board with respect to replacement provisions for certain goods falling under referred tariff items 21950-1, 43877-1 and 86000-1. The Board further envisages the provision of

duty remission, in appropriate circumstances (using the authority of section 17 of the Financial Administration Act), with respect to certain motor vehicle parts for use as original equipment currently entering under tariff items 43806-1, 43811-1 to 43815-1, 43819-1 and 43820-1 - all of which items, other than a modified version of item 43806-1, are now proposed for deletion. Of the four Schedule "B" drawback items referred to the Board (viz: 97052-1, 97053-1, 97056-1 and 97071-1), item 97056-1 is proposed for deletion and the remaining three for retention in amended form.

Three lists of existing tariff items are set out in Table 2, below. The first list comprises 49 tariff items (including the four drawback items) referred to the Board in toto and three items included in the reference insofar as they partially cover goods qualified by a "not made in Canada" description. The second list addresses the non-referred portions of the latter three items. In the third list, there appear nine non-referred items for which consequential changes or deletions are recommended by the Board. Opposite each item, or items, is indicated the recommended item(s) to which goods covered by the existing provisions would most generally go, or other action proposed by the Board.

TABLE 2. DISPOSITION OF EXISTING TARIFF ITEMS

<u>EXISTING ITEMS</u>	<u>RECOMMENDED ITEMS OR ACTION RECOMMENDED</u>
(a) <u>Referred Items or Parts of Items</u>	
21950-1	Deletion. Amend P.C. 1981-2857
30620-1	Deletion
31500-1 Ex.	31500-1
32645-1	32645-1
32669-1	32645-1
35235-1	35235-1
39225-1	Expiration
40700-1	40700-1
41106-1	Deletion. Amend 43806-1, 43816-1, 43821-1, 43842-1
42726-1	42726-1, 42727-1, 42728-1. Amend 44205-1
43806-1	43806-1. Duty remission
43807-1	Deletion. 43877-5
43811-1	Deletion. Duty remission

43812-1	Deletion. Duty remission
43813-1	Deletion. Duty remission
43814-1	Deletion. Duty remission
43815-1	Deletion. Duty remission
43816-1	43816-1
43819-1	Deletion. Duty remission
43820-1	Deletion. Duty remission
43821-1	43821-1
43824-1	Deletion
43825-1	Deletion
43826-1	43826-1
43861-1	43861-1
43877-1	43877-1, 43877-2. Amend P.C. 1981-2857
44022-1	44022-1, 44022-2
44059-1	44059-1
44205-1	44205-1, 44205-2
44305-1	Deletion
44560-1	44560-1
44569-1	44569-1
44643-1	Deletion
46400-1	Deletion
47605-1 Ex.	47605-1
47615-1	Deletion. Amend 47600-1
53415-1	53416-1
56255-1	56255-1
56705-1	56705-1
56710-1	Expiration
56930-1	56930-1
56935-1	Deletion
68200-1 Ex.	68200-1
85800-1	85800-1
86000-1	93819-40, 93819-41. Amend P.C. 1981-2857
86400-1	86400-1, 86400-2
92944-2	92944-2
93819-14	93819-40, 93819-41
97052-1	97052-1
97053-1	97053-1
97056-1	Deletion
97071-1	97071-1

(b) Non-referred Parts of Referred Items

31500-1	31500-1
47605-1	47605-1
68200-1	68200-1

(c) Non-referred Items Deleted or Wording Altered

32646-1	Expiration
32647-1	32645-1
40705-1	40700-1
42729-1	42726-1, 42727-1, 42728-1
43842-1	43842-1
43810-1	Deletion
47600-1	47600-1
53417-1	53415-1
93819-5	93819-40, 93819-41

It should be noted that correspondence in actual or potential coverage between existing items and recommended items cannot be assumed and, in fact, would be rare. In addition to those goods now covered by tariff items recommended for deletion without replacement, some goods now falling under tariff items to be amended would not fall under the replacement items but would revert to classifications under non-referred items elsewhere in the Customs Tariff. Further, it may be that some of the recommended items have broader coverage than the items they replace and would draw goods from non-referred items.

Retention of a "made/not made in Canada" qualification is proposed in the case of goods falling under seven of the recommended items - viz: 43877-8, 43877-9, 44022-2, 44205-2, 86400-2, 97052-1 and 97071-1. Many of the other recommended items are closely similar to the existing items but without a "not made in Canada" qualification. In a number of these instances, it is believed that there is no Canadian production of the goods described; thus, there would, in effect, be no change in the coverage of the particular items. In other cases, the Board has sought to eliminate products made in Canada; in the case of materials for the automotive industry (recommended item 43877-1) and catalysts (recommended item 93819-40), this has necessitated creation of new items for goods which otherwise would be attracted into the above-named recommended items.

Table 3 lists the Board's recommended items, and opposite each of them sets forth the existing items included in Table 2 to which they relate, as well as the existing items from which the rate recommendations are derived.

TABLE 3. RECOMMENDED TARIFF ITEMS RELATED TO EXISTING TARIFF ITEMS

<u>Recommended Items</u>	<u>Items Replaced in Whole or in Part</u>	<u>Items From Which MFN Rates Derived</u>
31500-1	31500-1	31500-1
32645-1	32645-1, 32647-1, 32669-1	32645-1
35235-1	35235-1	35235-1
40700-1	40700-1, 40705-1	40700-1, 40705-1
42726-1 and	42726-1, 42729-1, 43806-1, 43807-1, 43810-1 to 43816-1,	42726-1
42727-1	43819-1 to 43821-1	42729-1
42728-1	42726-1, 43800-1(a)	42726-1
43806-1	41106-1, 43806-1	43806-1
43816-1	41106-1, 43816-1	43816-1
43821-1	41106-1, 43821-1	43821-1
43826-1	43826-1	43826-1
43842-1	41106-1, 43842-1	41106-1, 43842-1
43861-1	43861-1	43861-1
43877-1	43877-1	43877-1
43877-2	43877-1	43877-1
43877-3	(b)	93901-71, 93902-71
43877-4	(b)	19200-2
43877-5	(b)	43807-1
43877-6	(b)	93907-1
43877-7	(b)	68905-1
43877-8	(b)	93205-3
43877-9	(b)	93207-3
43877-10	(b)	31205-1
43877-11	(b)	93209-1
43877-12	(b)	93819-1
43877-13	(b)	93819-1
44022-1	44022-1	44022-1
44022-2	44022-1	44022-1
44059-1	44059-1	44059-1
44205-1	44205-1, 97056-1	44205-1
44205-2	44205-1, 97056-1	44205-1
44560-1	44560-1	44560-1
44569-1	44569-1	44569-1
47600-1	47600-1, 47615-1	47600-1, 47615-1
47605-1	47605-1	47605-1
53415-1	53417-1	53417-1
53416-1	53415-1	53415-1
56255-1	56225-1	56255-1
56705-1	56705-1	56705-1
56930-1	56930-1	56930-1
68200-1	68200-1	68200-1
85800-1	85800-1	85800-1
86400-1	86400-1	86400-1
86400-2	86400-2	86400-2
92944-2	92944-2	92944-2

93819-40	86000-1, 93819-5, 93819-14	86000-1, 93819-5, 93819-14
93819-41	(c)	93819-1
97052-1	97052-1	97052-1
97053-1	97053-1	97053-1
97071-1	97071-1	97071-1

- (a) Non-referred item 43800-1 is in no way altered.
- (b) Item created to prevent goods being attracted into recommended item 43877-1; goods now generally classified under item shown in "rate derivation" column.
- (c) Item created to prevent goods being attracted into recommended item 93819-40; goods now generally classified under item shown in "rate derivation" column.

Although not advanced as formal recommendations, the Board would also like to draw attention to certain observations made with respect to tariff items 44022-1 and 44205-1. In regard to the former item, it is noted that if the "not made in Canada" proviso is retained, it would be possible to implement the Board's recommendation contained in its report on Reference No. 149. Pleasure Craft, and extend free entry to articles of any material. In connection with item 44205-2, it is suggested that a customs interpretation based on "type or size" rather than "class or kind" might be more appropriate in the case of certain goods, such as turbine parts, which have a highly specific relationship with their final products. Further, with respect to recommended items 44205-1 and 44205-2, it should be noted that the final version of the preamble will be dependent on decisions concerning the implementation of recommendations made by the Board in relation to proposed items 42815-1 and 42816-1, contained in the report on Phase I of this reference, and in regard to proposed items 42726-1 and 42727-1, included in the present report.

The Board's actual recommendations with respect to Phase II of Reference No. 157 are set out below. It will be noted that, in Schedule II, each tariff item has been assigned a number for purpose of cross-reference. The relevant chapter in the main body of the text is also indicated with respect to each item or group of items. It will be further noted that, irrespective of the units of measurement adopted in the nomenclature of existing items, or in the wording of replacement items as set out in the

preceding pages of the report, the metric system of measures has been employed throughout the present codification. Under the recommended nomenclature of each item, the rates of duty set forth, reading from left to right, pertain respectively to the British Preferential, Most-Favoured-Nation, General, General Preferential, and U.K. and Ireland Tariffs.

Accordingly, the Board recommends that:

1. The wording of section 8 of the Chemicals and Plastics Tariff Reduction Order (Order in Council P.C. 1981-2857 of October 15, 1981, as amended) be replaced by the wording set forth in Schedule I hereunder.
2. The Schedule to the Customs Duties Reduction Regulations (Chapter 460, Consolidated Regulations of Canada, as amended) be further amended by revoking tariff items 32646-1, 32647-1, 39225-1, 43861-1, 43877-1, 44560-1, 44569-1, 56705-1, 56710-1 and 92944-2, together with the enumerations of goods and rates of duty set opposite each of these items.
3. Schedule "A" to the Customs Tariff be amended by striking out the following tariff item numbers, together with the enumerations of goods and rates of duty set forth opposite each of the said numbers: 21950-1, 30620-1, 31500-1, 32645-1, 32669-1, 35235-1, 40700-1, 40705-1, 41106-1, 42726-1, 42729-1, 43806-1, 43807-1, 43810-1, 43811-1, 43812-1, 43813-1, 43814-1, 43815-1, 43816-1, 43819-1, 43820-1, 43821-1, 43824-1, 43825-1, 43826-1, 43842-1, 44022-1, 44059-1, 44205-1, 44305-1, 44643-1, 46400-1, 47600-1, 47605-1, 47615-1, 53415-1, 53417-1, 56255-1, 56930-1, 56935-1, 68200-1, 85800-1, 86000-1, 86400-1, 93819-5 and 93819-14, and by inserting therein the tariff item numbers, enumerations of goods and rates of duty set forth in Schedule II hereunder.
4. Provision for duty remission, in appropriate circumstances, be made under authority of section 17 of the Financial Administration Act, with respect to the goods enumerated in recommended tariff items 43806-1, 43816-1 and 43821-1, when imported for use as original equipment by the manufacturers of the motor vehicles and related products listed in these items (other

than for use as original equipment by the manufacturers of the goods of tariff item 41105-1), instead of for the uses set out in recommended tariff items 43806-1, 43816-1 and 43821-1.

5. Schedule "B" to the Customs Tariff be amended by striking out tariff item numbers 97052-1, 97053-1, 97056-1 and 97071-1, together with the enumerations of goods, qualifying provisions and the portions of duty payable as drawback, set forth opposite each of these items, and by inserting therein the tariff item numbers, enumerations of goods, qualifying provisions and rates of drawback of customs duty set forth in Schedule III hereunder.

SCHEDULE I

Amendment to Section 8 of the Chemicals and Plastics Tariff Reduction Order

8. During the period commencing on (the date of coming into effect of this order) and ending on June 30, 1987, the goods classified in Chapters 928 and 929 of Group XII of Schedule "A" to the Customs Tariff that would have been admitted free of duty by virtue of section 3, 4, 5, 6 or 7 if those goods had been entered under the British Preferential Tariff, shall be admitted free of duty when:

(a) entitled to admission under the Most-Favoured-Nation Tariff; and

(b) for use:

- (i) in the manufacture of goods described in headings 93901 to 93905, inclusive, of Group XII of Schedule "A" to the Customs Tariff; or
- (ii) in the manufacture of animal or poultry feeds; or
- (iii) in the manufacture of passenger automobiles, buses, motor trucks, ambulances or hearses, or chassis therefor, and parts and accessories and parts thereof, except tires and tubes, for all the foregoing; or
- (iv) as catalysts in the refining of petroleum.

SCHEDULE II

31500-1 Carbons or carbon electrodes over 76.2 mm in circumference or outside measurement and not exceeding 889 mm in circumference or outside measurement; carbons when imported for use in the manufacture of dry batteries and dry cells

Free Free Free Free Free

32645-1 Illuminating glassware, other than globes or spherical shapes decorated by the application of any material to the surface of the glass after it has been shaped, for use with light fixtures or with portable lamps

1/1/85 Free 3.8 p.c. 32.5 p.c. Free Free

1/1/87 Free Free 32.5 p.c. Free Free

35235-1 Centrifugally cast bronze shells or tubes not further manufactured than turned and bored longitudinally, for use in the manufacture of rolls for paper-making machinery

Free Free 30 p.c. Free Free

40700-1 Chains, of iron or steel, n.o.p., and complete parts thereof

1/1/85 11.2 p.c. 11.2 p.c. 25 p.c. 7.0 p.c. 11.2 p.c.

1/1/86 10.3 p.c. 10.3 p.c. 25 p.c. 6.5 p.c. 10.3 p.c.

1/1/87 9.6 p.c. 9.6 p.c. 25 p.c. 6.0 p.c. 9.6 p.c.

(Chapter 5)

Ball and roller bearings, n.o.p.; universal joint bearing assemblies, n.o.p.; parts of the foregoing, n.o.p.:

42726-1 Other than the following

Free Free 35 p.c. Free Free

42727-1 Automobile front wheel, double row, angular contact ball bearings, up to and including 76 mm, outside diameter;

Automotive universal joint bearing assemblies, cross-type, from 23.7998 mm up to and including 47.625 mm, outside diameter of the race;

Ball bearings with unground raceways up to and including 60.325 mm, outside diameter;

Miniature or small single row radial ball bearings (not including maximum capacity or maximum type bearings) up to and including 12.7 mm, outside diameter;

Single row radial ball bearings (not including maximum capacity or maximum type, or cartridge type bearings) up to and including 90 mm, outside diameter;

Single row tapered roller bearings up to and including 168.275 mm
outside diameter;
Parts of all the foregoing

1/1/85	Free	10.7 p.c.	35 p.c.	Free	9.2 p.c.
1/1/87	Free	9.2 p.c.	35 p.c.	Free	9.2 p.c.

(Chapter 5)

42728-1 Railway journal bearing assemblies, whether or not ready for mounting
in the condition as imported; parts of the foregoing, not to
include locking plates, and caps, cap screw seal rings, backing
rings or cap screws

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

(Chapter 5)

43806-1 Bearings, clutch release, with or without collar attached;
Bearings, graphite;
Bearings, steel or bronze backed, with non-ferrous metal lining, and
materials therefor;
Bearings, steering knuckle thrust;
Bushings or sleeve bearings of bronze or powdered metal;
Bushings, graphited or oil impregnated;
Ceramic insulator spark plug cores not further manufactured than
burned and glazed, printed or decorated or not, without fittings;
Collars, crankshaft thrust;
Compressors, air, of less than 3.42 litres per second or more than
11.33 litres per second;
Commutator copper segments; commutator insulating end rings;
Discs, tapered, of hot-rolled steel, with or without centre hole, for
disc wheels;
Diaphragms for fuel and vacuum pumps;
Door bumper shoes;
Ignition contact points;
Keys for shafting;
Laminated composition plastic timing gear blanks;
Lenses of glass for motor vehicle lamps and for light reflectors;
Lock washers of any metal, except steel; steel lock washers with
internal or external teeth; and helical spring lock washers of
steel, with an inside diameter greater than 38 mm;
Magnetic plugs;
Materials for gaskets, other than compressed asbestos and combi-
nations of asbestos and synthetic rubber;
Metal frames for convertible soft tops;
Permanent mould pistons for brake master cylinders;
Piston ring castings in the rough, with or without gates and fins
removed, other than for motor vehicles with engines ranging in size
from 1,245 cm³ to 8,996 cm³;
Propeller shaft tubes of steel bonded by rubber;

Rails of lock seam section, corners, locks and catches, and unplated ventilators, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies;
Shift control, electric, for two speed rear axles;
Steel formed bottoms, metal grommets (flanges) or rings of steel, copper or brass and blank layers of steel for cylinder heads or manifold gaskets;
Switches, relays, circuit breakers and solenoids and combinations thereof, including starter switch assemblies but not automotive turn signal flasher units;
Synchronizing cones or blocking rings for transmissions;
Vacuum, hydraulic or air control assemblies, other than spring brakes;
Parts of all the foregoing, other than the following:

Parts of vacuum, hydraulic or air control assemblies, namely:

Electric weld tubing, with outside diameter 9.525 mm or less and wall thickness 0.711 mm or less, and double wall copper brazed tubing, with outside diameter 9.525 mm or less and wall thickness 0.711 mm or less;

Hydraulic gear pumps to operate hoists and other accessories;

Hydraulic brake hoses and hydraulic brake locks;

Manual slack adjusters for air brake systems;

Nylon (polyamide) air brake tubing;

Parts of spring brakes, namely: spring locators, bulkheads, spring retainers and diaphragms;

All of the foregoing for use in the repair of goods enumerated in tariff items 41006-1, 41105-1, 42400-1 and 43803-1, or for use in the manufacture or remanufacture of repair parts therefor

Free	Free	30 p.c.	Free	Free
------	------	---------	------	------

43816-1	Ammeters;			
	Arm rests and wheel housing lining of indurated fibre, pressed to shape, other than for automobiles and motor trucks;			
	Axle housings, one piece welded, machined or not, including parts welded thereto;			
	Carburetors;			
	Chassis frames and steel shapes for the manufacture therefor;			
	Cigar and cigarette lighters, whether in combination with a cigarette holder or not, including base;			
	Composite frame and floor structure of metal in the rough;			
	Control ventilator gear box;			
	Cylinder lock barrels, with or without sleeves and keys therefor;			
	Dash heat indicators;			
	Fluid couplings with or without drive plate assemblies;			
	Gauges, gasoline, oil or air;			
	Grilles not plated, polished or not before assembly, and parts thereof not plated or polished after final forming, casting or piercing, not including added finish or decorative mouldings;			
	Hinges, finished or not, for bodies;			
	Horns;			

Instrument bezel assemblies; instrument board lamps; instrument panel, glove compartment, luggage compartment, hood compartment and door step lamps and wire assemblies;

Locks, electric ignition, steering gear, transmission, or combinations of such locks;

Mouldings of metal, with nails or prongs set in position, lead filled or not;

Oil filter parts, namely: refill end discs and roll-seam perforated tubes;

Ornaments and identification plates of metal, unplated, not including finished or decorative mouldings, other than for past models of automobiles and motor trucks;

Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor, other than for automobiles and motor trucks;

Radiator shutter assemblies, automatic;

Radiator water gauges;

Reclining seat mechanisms;

Shackles, bearing spring;

Speedometers;

Spring covers of metal and closing strips or shapes therefor;

Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles, of plain or coated metal, in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree, including such stampings incorporating pierce or clinch nuts, but not including door pillars, shields and baffles for current models of automobiles and motor trucks;

Steering wheels, rims and spiders therefor, other than for current models of automobiles and motor trucks;

Sun visor blanks of gypsum weatherboard;

Swivel seat mechanisms;

Tachometers, with or without tachographs, both electric and gear driven;

Throttle, spark, choke, and hood lock release assemblies, including buttons therefor;

Thermostatic controls for heavy-duty diesel motor trucks;

Torque converters;

Transmission overdrive units, auxiliary, and controls therefor;

Universal joint ball assemblies, other than cross-type;

Windshield and window wipers;

Parts of all the foregoing, including brackets, fittings and connections therefor, other than the following:

Parts of speedometers, namely: speedometer cables, and speedometer cable and housing assemblies;

Parts of thermostatic controls, namely: power element cups, guides, pistons, pellets, valves, flanges, top frames, bottom frames and springs;

Sintered powdered metal parts of auxiliary transmission overdrive units and controls therefor;

Parts of windshield and window wipers, namely: blades and refills for automobiles and motor trucks;

All of the foregoing when for use in the repair of goods enumerated in tariff items 41006-1, 41105-1, 42400-1 and 43803-1, or for use in the manufacture or remanufacture of repair parts therefor

	Free	Free	25 p.c.	Free	Free
43821-1	<p>Axles, front and rear; Bell or clutch housings for vehicles having a gross vehicle weight rating of over 8,845 kg; Brakes other than heavy-duty motor truck brakes ranging in size from 381 mm by 76.2 mm to 419.1 mm by 177.8 mm, and air and hydraulic brakes for current model service of vehicles having a capacity of up to 1.82 tonnes; Brake drums; Cast aluminum road wheels for tube type tires using rim sizes larger than 508 mm by 203.2 mm and for tubeless type tires using rim sizes larger than 571.5 mm by 209.55 mm; Clutches other than single plated clutches of up to 330.2 mm in diameter; Continuous control or constant velocity half-shaft drive shafts; Fuel pumps for use on automotive engines with a piston displacement of more than 4,949.8 cm³, not electrically operated; Hubs; Hydraulic or fluid couplings other than for heavy-duty motor trucks; Internal combustion engines over 5,703.7 cm³ in displacement; Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases; Magnetos; Power dividers or transfer cases; Rims for pneumatic tires larger than 508 mm by 190.5 mm for tube type tires, and larger than 571.5 mm by 171.45 mm for tubeless tires; Steel road wheels larger than 622.3 mm in diameter; Steering drag links for vehicles having a gross vehicle weight rating of 9,072 kg or over; Steering gears; Tandem axle suspensions, not to include springs, other than for current models of heavy-duty motor trucks; Transmission assemblies; Parts of the foregoing, other than: Brake shoe assembly kits; Parts of axles, namely: axle shafts for motor vehicles having a gross vehicle weight rating of 8,845 kg or less; Parts of internal combustion engines over 5,703.7 cm³ in displacement, namely: timing chains; intake and exhaust valves, with the exception of sodium or sodium and mercury filled valves, for use in internal combustion engines, other than diesel; Parts of steering drag links for vehicles having a gross vehicle weight rating of 9,072 kg or over, namely: idler arms; tie rod assemblies; tie rod ends;</p>				

Parts of transmission assemblies, namely: differentials, including axle housings; sintered powdered metal parts;

All the foregoing when for use in the repair of motor trucks, motor buses, self-propelled logging trucks as described in tariff item 41105-1, fire-fighting vehicles, ambulances, hearses and electric trackless trolley buses, or for chassis for same, or for use in the manufacture or remanufacture of repair parts therefor

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

43826-1 Internal combustion engines of 5,703.7 cm³ and under in displacement;

Parts of the foregoing, other than: timing chains; intake and exhaust valves, with the exception of sodium or sodium and mercury filled valves for use in internal combustion engines, other than diesel;

All of the foregoing when for use in the repair of motor trucks, motor buses, fire-fighting vehicles, ambulances, hearses and electric trackless trolley buses, or of chassis for same, or for use in the manufacture or remanufacture of repair parts therefor

1/1/85	Free	6.0 p.c.	27.5 p.c.	Free	5.5 p.c.
1/1/87	Free	5.5 p.c.	27.5 p.c.	Free	5.5 p.c.

43842-1 Body bottom cross members and steel shapes for the manufacture thereof;

Bumpers, front and rear, including spring steel bumper plates;
Casket tables or platforms for hearses;
Destination and route sign assemblies, illuminated or not;
Door and step mechanism, hand, vacuum or air operated;
Electric switches, buzzers, bells, push buttons, fuse assemblies;
Forward drive control conversion assemblies;
Lamp sockets, flanges, terminals and glassware;
Metal stampings and assemblies thereof, whether or not coated with oil, primer or sound deadening compound;
Rubber fenders;
Ventilators, including motor driven fan type, and grilles;
Parts of all the foregoing other than bumper bar bolts capped with stainless steel;

All of the foregoing when imported to be used only in the manufacture or repair of motor truck bodies, motor bus bodies, electric trackless trolley bus bodies, fire-fighting vehicles, ambulances and hearses, in the repair of self-propelled logging trucks as described in tariff item 41105-1, or for use in the manufacture or remanufacture of repair parts for any of the foregoing

Free	Free	20 p.c.	Free	Free
------	------	---------	------	------

43861-1 Bumper face bars of bare metal, not finished in any degree after final forming, for use in the manufacture of motor vehicle bumpers

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

(Chapter 7)

Materials, not including goods otherwise classifiable under any tariff item subject to section 12 of the Customs Tariff, nor goods, other than those enumerated below, wholly or in chief part by weight of iron or steel and alloys thereof, aluminum and alloys thereof or copper and alloys thereof;

All the foregoing when for use in the manufacture of passenger automobiles, buses, motor trucks, ambulances or hearses, or chassis therefor, and parts and accessories, and parts thereof, except tires and tubes, for all of the foregoing:

43877-1 Other than the following

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

43877-2 Iron powder produced from scrap steel without the addition of cast iron;

Pipes or tubes, carbon steel, seamless, cold-rolled;
Screening, galvanized, for filter media;
Sheet or strip, carbon steel, copper or copper-alloy coated;
Strip copper, solder-coated on one side;
Windshield radio antenna wire, nylon-coated

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

43877-3 Adhesives based on synthetic resins

1/1/85	13.8 p.c.	13.8 p.c.	25 p.c.	9 p.c.	13.8 p.c.
1/1/87	12.5 p.c.	12.5 p.c.	25 p.c.	8 p.c.	12.5 p.c.

43877-4 Automotive board in sheets, namely: 1.778 mm black lined, 3-ply, laminated, not coated; and 3.048 mm particle chipboard

1/1/85	8.6 p.c.	8.6 p.c.	35 p.c.	Free	8.6 p.c.
1/1/87	6.5 p.c.	6.5 p.c.	35 p.c.	Free	6.5 p.c.

43877-5 Gasket stock consisting of compressed asbestos, whether or not combined with styrene-butadiene or other synthetic rubbers

1/1/85	Free	9.1 p.c.	30 p.c.	Free	8 p.c.
1/1/87	Free	8.0 p.c.	30 p.c.	Free	8 p.c.

43877-6	Non-metallic conduit and tubing for electrical wiring				
1/1/85	14.5 p.c.	14.5 p.c.	30 p.c.	9.5 p.c.	14.5 p.c.
1/1/87	13.5 p.c.	13.5 p.c.	30 p.c.	9.0 p.c.	13.5 p.c.
43877-7	Fibreglass insulation products				
1/1/85	Free	13.5 p.c.	25 p.c.	Free	11.3 p.c.
1/1/87	Free	11.3 p.c.	25 p.c.	Free	11.3 p.c.
43877-8	Organic pigments, of a class or kind made in Canada				
1/1/85	10 p.c.	13.1 p.c.	25 p.c.	8.5 p.c.	12.5 p.c.
1/1/87	10 p.c.	12.5 p.c.	25 p.c.	8.0 p.c.	12.5 p.c.
43877-9	Inorganic pigments, of a class or kind made in Canada				
1/1/85	10 p.c.	13.1 p.c.	25 p.c.	8.5 p.c.	12.5 p.c.
1/1/87	10 p.c.	12.5 p.c.	25 p.c.	8.0 p.c.	12.5 p.c.
43877-10	Asbestos paper				
1/1/85	Free	9.1 p.c.	25 p.c.	Free	8 p.c.
1/1/87	Free	8.0 p.c.	25 p.c.	Free	8 p.c.
43877-11	Paints, not including paints in aerosol or in tubes, nor paste paints or ceramic paints; stamping foils; stains and thinners other than ceramic or silver paint thinners				
1/1/85	10.0 p.c.	11.4 p.c.	25 p.c.	7.5 p.c.	10.0 p.c.
1/1/87	9.2 p.c.	9.2 p.c.	25 p.c.	6.0 p.c.	9.2 p.c.
43877-12	Plastics compounding plasticizers and stabilizers, formulations, not to include tin-based stabilizers for synthetic resins				
1/1/85	10 p.c.	13.1 p.c.	25 p.c.	8.5 p.c.	12.5 p.c.
1/1/87	10 p.c.	12.5 p.c.	25 p.c.	8.0 p.c.	12.5 p.c.
43877-13	Rubber compounding agents, formulated, not to include fire retardants, accelerators, retarders, antioxidants, inhibitors or ultra violet absorbers, nor reclaiming agents or plasticizers of petroleum origin				
1/1/85	10 p.c.	13.1 p.c.	25 p.c.	8.5 p.c.	12.5 p.c.
1/1/87	10 p.c.	12.5 p.c.	25 p.c.	8.0 p.c.	12.5 p.c.

Manufactures of iron, brass or other metal for use exclusively in the construction or equipment of the goods enumerated in tariff items 44000-1 to 44009-1 inclusive, under regulations prescribed by the Minister:

44022-1 Clutches, power transmission, over 46 cm, double;
Drives, jet, marine, combined with engines;
Engine propulsion units, inboard-outboard;
Lights, navigation, for vessels exceeding 8 m in length;
Locks and bars for boat doors;
Marine hardware for the manufacture of sailboat masts or for use in rigging yachts;
Motors, hydraulic;
Motors, outboard, V-6 or racing;
Outboard parts of inboard-outboard vessels, not including engines;
Power transmission equipment, hydraulic, including valves but not including actuators under 282.5 kNm of torque;
Power transmission power take-offs;
Propellers, marine, outboard or inboard-outboard, not over 23 cm in diameter;
Pumps, bilge and water;
Pumps, hydraulic;
Pumps, power, rotary, twin-screw, with capacity in excess of 15 m³/m or 406.5 m of water at 4°C;
Stoves, marine, alcohol, one- or two-burner, for vessels exceeding 8 m in length;
Turbines, marine, gasoline;
V-engine blocks for marine engines other than diesel or outboard;
Parts of all the foregoing

Free	Free	Free	Free	Free
------	------	------	------	------

44022-2 Other, of a class or kind not made in Canada

Free	Free	Free	Free	Free
------	------	------	------	------

(Chapter 6)

44059-1 Auxiliary power units;
Batteries;
Bolts, cocks, cotter pins, eyelets, nuts, pins, rivets, screws, turnbuckles and clevis, washers;
Brakes, with related operating gear;
Carburetors;
De-icing and anti-icing equipment;
Direct or inertia starters with or without related operating gear;
Distributors;
Electric generators;
Electric lamps;
Exhaust gas analyzers;

Fittings and couplings;
 Forgings and castings;
 Fuel pressure warning devices;
 Hinges;
 Hydraulic jacks;
 Hydraulic pumps;
 Ignition coils;
 Instruments;
 Landing and navigation lights;
 Magnetos;
 Oil coolers;
 Pressure fire extinguishers;
 Primer pumps;
 Propellers and helicopter rotors;
 Radio for navigation and air traffic communication;
 Seats;
 Shapes or sections, rolled, drawn or extruded, and bars, rods, tubes, plate, sheet and strip, of any metal or alloy thereof;
 Spark plugs;
 Swaged wires and tie rods;
 Tires and tire inner tubes;
 Vacuum pumps with related operating gear;
 Voltage control boxes;
 Wheels;
 Parts of all the foregoing;

All of the foregoing for use in aircraft, aircraft engines, air-borne aircraft equipment, or parts of aircraft, aircraft engines, or airborne aircraft equipment

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

(Chapter 6)

Parts, wholly or in chief part of metal, when imported for use in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42726-1, 42729-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, and 44705-1, and all other materials, wholly or in chief part of metal, when imported for use in the manufacture of goods entitled to entry under these tariff items or under tariff items 42732-1, 42733-1 and 42741-1, under such regulations as the Minister may prescribe:

44205-1	Axles of planetary type for woodland log handling equipment; Boiler tubes and tubing, seamless, of cold finished carbon steel, with an outside diameter of less than 17.46 mm or more than 101.6 mm, or of ultrasonic level of quality; Carburetors and ignition systems for woodworking chain saws; Clutches, double, over 457.2 mm, for power transmission;
---------	--

Diesel engines having a continuous brake power rating of less than 522 kw or more than 3,355 kw, and semi-diesel engines;
 Mechanical tubing, seamless, of alloy steel, except stainless steel, with an outside diameter of less than 4.76 mm or more than 177.8 mm, or of roller bearing quality;
 Parts of ball or roller bearings, namely: balls, bearing wire, cages or snap retainers, seals, shields, snap rings;
 Parts of gas turbines, steam turbines or sub-assemblies thereof, namely:
 actuators, servomotors and governors;
 blades and buckets larger than 203.2 mm for rotating elements;
 castings for rotating blades and buckets;
 castings for stationary blades, vanes and nozzles, or multiples thereof;
 fluid film journal and thrust bearings;
 forgings for rotating blades and buckets;
 forgings, rough-machined, for discs, wheels and torque tubes;
 forgings, rough-machined, for rotors, shafts and spindles, vertically heat treated and/or heat indication tested;
 fully-machined blades, blade diaphragms, rotors, shafts and spindle discs for steam turbines with ratings of over 59,656 kw, or for gas turbines with ratings of less than 5,965.6 kw or more than 44,742 kw;
 sensing and trip devices for speed, temperature, pressure and vibration;
 trip and throttle valves;
 Parts of outboard motors and stationary steam engines;
 Plates of stainless steel, 4.76 mm and heavier, more than 1,828.8 mm in width;
 Pressure pipes and piping and pressure tubes and tubing, seamless, of alloy steel, except stainless steel, with an outside diameter of less than 4.76 mm or more than 177.8 mm;
 Pressure pipes and piping, seamless, of hot-finished carbon steel, with an outside diameter of less than 25.4 mm or more than 339.73 mm;
 Pressure pipes and piping, welded, of carbon steel, with an outside diameter of less than 12.7 mm or more than 114.3 mm;
 Sheets of nickel-chromium alloy;
 Transmissions for log loaders of tractor type and for log skidders;
 V-engine blocks for marine gasoline engines other than diesel and outboard;
 Parts of all the foregoing

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

44205-2 Other, of a class or kind not made in Canada

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

44560-1 Lamp bases of metal for use in the manufacture of incandescent electric lamps for motor vehicles

Free Free 30 p.c. Free Free

(Chapter 7)

44569-1 Steatite ceramic parts for use in the manufacture of resistors

Free Free 20 p.c. Free Free

47600-1 X-ray apparatus and X-ray films; microscopes, illuminating devices and stands for use therewith; the following surgical, dental, veterinary and diagnostic articles: sutures; instruments; sterilizers; cobalt-therapy units; anaesthesia, surgical suction and oxygen administering apparatus including motive power and wall outlets but not piping systems. Parts of all the foregoing; electric light lamps designed for use with all the foregoing; portable cases and containers for all the foregoing

Free Free Free Free Free

47605-1 Fibre optic operating room lights; chairs and tables for surgical operating purposes; infant incubators; infant and patient medical-alert or identification devices including beads, tapes and ribbons of any material, cases therefor and equipment for their application; electrocardiographs, paper and sensitized film for use therein; unexposed instant film; apparatus for sterilizing purposes, including bedpan washer-sterilizers but not including washing nor laundry machines; parts of all the foregoing; electroencephalographic paper. All for the use of any public hospital, under such regulations as the Minister may prescribe

Free Free Free Free Free

(Chapter 5)

Press blankets or blanketing:

53415-1 For use with offset printing presses

1/1/85	10 p.c.	13.3 p.c.	25 p.c.	8.5 p.c.	12.5 p.c.
1/1/87	10 p.c.	12.5 p.c.	25 p.c.	8.0 p.c.	12.5 p.c.

53416-1 Other

Free Free 10 p.c. Free Free

(Chapter 4)

56255-1	Fabrics for use in the manufacture of screens for printing	Free	Free	45 p.c.	Free	Free
56705-1	Woven fabrics, wholly or in part of man-made fibres or filaments, in the web or with fused edges, for use in the manufacture of sails for boats and ships	Free	Free	25 p.c.	Free	Free
56930-1	Hat braids, whether woven, knitted or plaited, not exceeding 152 mm in width, for use in the manufacture of hat bodies or shapes, but not for use in the ornamentation or trimming of such bodies or shapes	Free	Free	Free	Free	Free

(Chapter 4)

68200-1	Fish hooks, for deep-sea or lake fishing, not smaller in size than number 2.0; Fishing nets and nettings of all kinds; Lures, jiggers and artificial baits; Metal panel devices for use in keeping nets open; Metal swivels; Net and line floats of any material except wood; Threads, twines, marlines, fishing lines, rope and cordage, not exceeding 38.1 mm in circumference; Oyster spat collectors; All the foregoing for use in commercial fishing, or in the commercial harvesting of marine plants, under such regulations as the Minister may prescribe; Carapace measures of any material	Free	Free	Free	Free	Free
---------	---	------	------	------	------	------

(Chapter 5)

85800-1	Zeolites, excluding compound aluminum silicates, for use in the manufacture of cracking catalysts for the refining of petroleum	Free	Free	25 p.c.	Free	Free
86400-1	Chemicals for use in the manufacture of ABS resins or ABS moulding compositions, namely: Alkyl thiols; N,N-bis (2-hydroxyethyl) alkyl amines; Antimony oxide;					

Ferrous sulphate, heptahydrate;
Magnesium oxide between 80 per cent and 94 per cent pure;
Synthetic waxes other than ethylene-bis-stearamide

	Free	Free	15 p.c.	Free	Free
86400-2	Inorganic pigments of a kind not produced in Canada for use in the manufacture of ABS resins or ABS moulding compositions				
	Free	Free	15 p.c.	Free	Free
92944-2	Antibiotics, crude, and antibiotic intermediates, structurally based on 6 amino-penicillanic acid, not further processed than extracted from their primary fermentation liquors, in crystalline form, for use in the manufacture of antibiotics				
	Free	Free	25 p.c.	Free	Free

(Chapter 4)

Catalysts otherwise classifiable under tariff item 93819-1:

93819-40	Other than the following				
	Free	Free	25 p.c.	Free	Free
93819-41	Fluid bed silica-alumina cracking catalysts for use in the refining of petroleum, composed of silica-alumina and synthetic components whether or not containing clay; catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and polyaromatic saturation of petroleum feedstocks, in hydrotreating service only				
1/1/85	10 p.c.	13.1 p.c.	25 p.c.	8.5 p.c.	12.5 p.c.
1/1/87	10 p.c.	12.5 p.c.	25 p.c.	8.0 p.c.	12.5 p.c.

(Chapter 4)

SCHEDULE III

Goods

When Subject to Drawback

97052-1 Machines, precision instruments, apparatus, control panels therefor and accessories or attachments for use therewith; parts of all the foregoing, not including consumable tools; all the foregoing of a class or kind not made in Canada.

When used

(a) in the plants of manufacturers of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof for the manufacture of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof; or

(b) for the manufacture of:

(i) dies, jigs, fixtures, moulds, and patterns therefor;

(ii) cutting tools and parts thereof, for use with machines;

all of the foregoing for use in the production of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof

Portion of duty payable as drawback: 100 p.c.

(Chapter 7)

97053-1 Machinery; precision instruments and apparatus for heat treating, welding, sorting, testing, inspecting or correcting; control panels for use with the aforementioned machinery and precision instruments and apparatus; accessories and attachments for use with the aforementioned machinery and

When used for the manufacture, repair, maintenance, rebuilding, modification or conversion of aircraft, aircraft engines, airborne aircraft equipment or of parts of the foregoing

Goods

When Subject to Drawback

97053-1 precision instruments and appa-
(cont.) ratus; parts of all the fore-
going, not including consumable
tools.

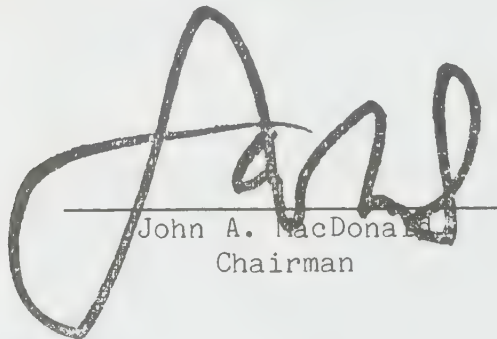
Portion of duty payable as drawback: 100 p.c.

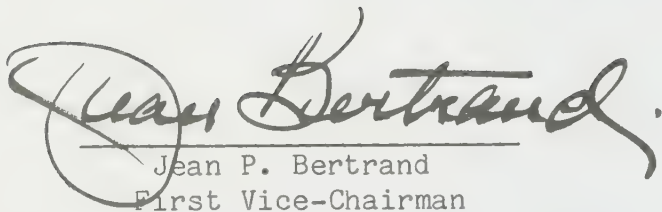
97071-1 Materials of a class or kind not
made in Canada.

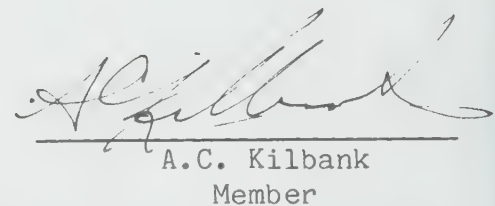
When used for the manufacture,
repair, maintenance, rebuild-
ing, modification or conver-
sion of aircraft, aircraft
engines, airborne aircraft
equipment or of parts of
the foregoing


Portion of duty payable as drawback: 100 p.c.

(Chapter 6)


John A. MacDonald
Chairman


Jean P. Bertrand
First Vice-Chairman


A.C. Kilbank
Member


K.C. Martin
Member


R.K. Matthie
Member

A P P E N D I C E S

APPENDIX I

TARIFF ITEMS REFERRED TO THE BOARD FOR STUDY

ANNEX I

19755-1	42000-1	44125-1
28105-1	42100-1	44210-1
38003-1	42600-1	44320-1
41001-1	42761-1	44524-2
41002-1	42762-1	44532-1
41012-1 Ex.	42765-1 Ex.(a)	46115-1
41013-1	42865-1	47825-1
41014-1	42875-1	47826-1
41021-1 Ex.	42880-1 Ex.	49104-1
41022-1	42885-1	49105-1
41023-1	43150-1	49201-1
41026-1	43425-1 Ex.(a)	49202-1
41027-1	43505-1	49210-1
41031-1	43510-1	49211-1
41032-1	43705-1	49215-1
41305-1	43710-1	49216-1
41700-1		

ANNEX II

21950-1	43820-1	46218-1(b)
30620-1	43821-1	46246-1(b)
31500-1 Ex.(a)	43824-1	46400-1
32645-1	43825-1	47605-1 Ex.(a)
32669-1	43826-1	47615-1
35235-1	43861-1	53415-1
38002-1(b)	43864-1 Ex.(a)(b)	56255-1
39225-1	43877-1	56705-1
40700-1	44022-1	56710-1
41106-1	44025-1(b)	56930-1
42726-1	44028-1(b)	56935-1
43155-1(b)	44059-1	68200-1 Ex.(a)
43806-1	44205-1	85800-1
43807-1	44305-1	86000-1
43811-1	44315-1(b)	86400-1
43812-1	44530-1(b)	92944-2
43813-1	44560-1	93819-14
43814-1	44569-1	97052-1
43815-1	44643-1	97053-1
43816-1	44725-1(b)	97056-1
43819-1	46111-1 Ex.(a)(b)	97071-1

(a) Subsequently determined that not all of the provisions of the tariff item fall directly within the ambit of the reference.

(b) Transferred by the Board for study and reporting purposes to the first phase of the inquiry.

APPENDIX II

RELATED TARIFF ITEMS:
NOMENCLATURE AND RATES OF DUTY

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 29610-1</u>					
Magnesite, dead-burned or sintered, n.o.p.; magnesite, caustic calcined, n.o.p.; plastic magnesia; magnesium oxide, n.o.p.	11.4	11.4	30	7.5	11.4
Effective...1/1/87	9.2	9.2		6	9.2
<u>Item 30505-1</u>					
Marble, rough, not hammered or chiselled	Free	Free	20	Free	Free
<u>Item 30515-1</u>					
Marble, sawn or sand rubbed, not polished	Free	Free	35	Free	Free
Effective...1/1/87		4			4
<u>Item 30700-1</u>					
Marble, n.o.p.	11.1	11.1	40	7	11.1
Effective...1/1/87	9	9		6	9
<u>Item 30705-1</u>					
Manufactures of marble, n.o.p. ...	11.1	11.1	40	Free	11.1
Effective...1/1/87	9	9		6	9
<u>Item 31505-1</u>					
Carbons or carbon electrodes exceeding thirty-five inches in circumference or outside measurement	Free	16.9	20	Free	15
Effective...1/1/87		15			

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 31600-1</u>					
Electric light and arc carbons, pointed or not, and contact carbons, n.o.p.	14.6	14.6	35	9.5	14.6
Effective...1/1/87	11.3	11.3		7.5	11.3
<u>Item 32607-1</u>					
Illuminating glassware, n.o.p. ...	10	14.6	32.5	9.5	11.3
Effective...1/1/87		11.3		7.5	

Illuminating shades, reflectors, refractors and shapes, of blown glass, for use in the manufac- ture of the goods enumerated in tariff item 44500-1:					
<u>Item 32646-1</u>					
Other than the following	Free	7.5	30	Free	7.5
(<u>Temporary tariff item</u>)					
<u>Item 32647-1</u>					
Not further processed by the application of any material to the surface of the glass after it has been blow to shape	Free	Free	30	Free	Free
(<u>Temporary tariff item</u>)					

<u>Item 32660-1</u>					
Articles of glass, not to include plate, sheet, machine-made tumblers nor containers for the					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 32660-1 (cont.)</u>					
bottling or packaging of products, when for use in the manufacture of cut or decorated glassware, under such regulations as the Minister may prescribe	Free	Free	32.5	Free	Free

Natural oxides, n.o.p., not including ores of metals:					
<u>Item 33502-1</u>					
Antimony oxides	Free	4.7	25	Free	Free
Effective...1/1/87		Free			

<u>Item 35200-1</u>					
Brass and copper nails, tacks, rivets and burrs or washers; bells and gongs, n.o.p.; and manufactures of brass or copper, n.o.p.	12.9	12.9	30	8.5	12.9
Effective...1/1/87	10.2	10.2		6.5	10.2
<u>Item 39205-1</u>					
Forgings of iron or steel, hollow, rough-machined or not, not less than twelve inches in internal diameter; all other forgings, solid or otherwise, rough-turned or rough-machined or not, of a weight of twenty tons or more ..	5	13.9	30	5	10.2
Effective...1/1/87		10.2			

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 39210-1</u>					
Forgings, solid or otherwise, rough-turned or rough-machined or not, of a weight of forty tons or over	Free	12.1	30	Free	9.2
Effective...1/1/87		9.2			

Wire of all metals or alloys thereof, n.o.p.:					
Single, not coated or covered:					
<u>Item 40121-1</u>					
Copper and nickel	7.5	7.5	25	5	7.5
Effective...1/1/87	4.5	4.5		3	4.5
<u>Item 40121-2</u>					
N.o.p.	7.5	9.7	25	6	8
Effective...1/1/87		8		5	
<u>Item 40122-1</u>					
Single, coated or covered	10	12	25	8	10.2
Effective...1/1/87		10.2		6.5	
<u>Item 40123-1</u>					
Twisted, braided, bunched or otherwise conjoined, whether or not reinforced with steel, coated or covered or not, including cable, rope and strand	12.5	12.9	25	8.5	12.5
Effective...1/1/87	10.2	10.2		6.5	10.2

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 40705-1</u>					
Chains, of iron or steel, n.o.p., and complete parts thereof	12.9	12.9	25	8.5	12.9
Effective...1/1/87	10.2	10.2		6.5	10.2
<u>Item 41006-1</u>					
Diesel-powered self-propelled dump trucks, mounted on rubber-tired wheels or on rubber-tired wheels and half-tracks, having a rated capacity by struck volume of not less than 9 1/2 cubic yards, and by payload weight of not less than 15 tons, and parts thereof, for off-highway use in carrying minerals or other ex- cavated materials at mines, quarries, gravel and sand pits or at construction sites	5	9.5	25	5	9.2
Effective...1/1/87		9.2			
<u>Item 41100-1</u>					
Machines for use in sawing lumber, up to but not including the operation of planing, and parts thereof, not including equip- ment for driving the machinery of the saw mill, when for use exclusively in saw mills; Machines, and parts thereof, for use exclusively in the opera- tion of logging, such opera- tion to include the removal of the log from stump to skidway, log dump, or common or other carrier	9.7	9.7	20	6	9.7
Effective...1/1/87	8	8		5	8

APPENDIX II (CONT.)

<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
-------------	---------------	-------------	-------------	----------------------------

- per cent -

Item 41100-1 (cont.)

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of remission granted under this provision.

Item 41105-1

Self-propelled trucks, not including machines for felling, skidding, piling, loading, bunching or processing trees or logs, which have been modified for carrying a load; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

10	10.4	20	Free	10
Effective...1/1/87	9.2	9.2		9.2

Item 41105-2

Logging cars; captive balloons; blocks and tackle; parts of all the foregoing; all the foregoing

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 41105-2 (cont.)</u>					
for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier	9.7	9.7	20	Free	9.7
Effective...1/1/87	8	8			8
<u>Item 41105-3</u>					
Wire rope, not including wire rope to be used for guy ropes or in braking logs going down grade, for use exclusively in the operation of logging, such operation to include the removal of the logs from stump to skidway, log dump, or common or other carrier	9.7	9.7	20	6	9.7
Effective...1/1/87	8	8		5	8
<u>Item 41110-1</u>					
Cylinder stave saws, wheel type stave jointers, crozing and champhering machinery, and complete parts thereof	9.7	9.7	20	6	9.7
Effective...1/1/87	8	8		5	8
<u>Item 42400-1</u>					
Fire engines and other fire extinguishing machines and chassis for same; complete parts other than chassis parts	Free	12.9	35	Free	10.2
Effective...1/1/87		10.2			

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
Machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing:					
<u>Item 42700-1</u>					
Other than the following	2.5	11.4	35	2.5	9.2
Effective...1/1/87		9.2			
<u>Item 42700-6</u>					
Automobile air conditioners when imported in "kits" com- plete;					
Bone working machines;					
Bottle washing machines, bottle filling machines, bottle capping machines, and any combination thereof, for use by the beverage industry;					
Button making machines;					
Can making machines;					
Centrifugally cast paper machine roll shells;					
Cheese making machines, in- cluding cheese dyeing machines, but not including cheese presses and vats;					
Combination excavating and transporting scrapers;					
Combination ice cube makers and dispensers;					
Commercial laundry machines, namely: centrifugal extrac- tors, flatwork ironers, washer-extractors;					
Confectionery industry manufac- turing machines, namely: chocolate coating, enrobing, tempering moulding machines, candy pulling and extruding					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42700-6 (cont.)</u>					
machines, chewing gum making					
machines, cotton candy making					
machines;					
Counter-top electric dish-					
washers;					
Feed pellet mills;					
Fish skinning, deheading and					
grinding machines;					
Flour mills, domestic;					
Glass making machines, not in-					
cluding furnaces;					
Hand-held pneumatic and hydrau-					
lic powered machines, other					
than rock drills, stoper					
drills and feed legs, sinker					
drills, paving breakers,					
spaders and diggers;					
Lime slaker machines;					
Nailing machines, woodworking;					
Paper and paperboard converting					
machines;					
Paper testing machines and					
paper laminating machines;					
Pasta making machines, inclu-					
ding macaroni making machines;					
Pencil lead extrusion machines;					
Portable air conditioners, 55					
lbs. or less in weight, up to					
6,000 BTU in capacity, not					
including window type;					
Processed breakfast cereal food					
manufacturing machines,					
namely: extruders, cooker-					
extruders, toasting ovens,					
louvre driers, puffing					
machines including guns and					
ovens, coating drums, shred-					
ders, flaking rolls and					
shredding rolls;					
Railway cranes or derricks of a					
type designed for lifting					
locomotives;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42700-6 (cont.)</u>					
Roller milling machines for refining sugar;					
Sash type gang saws;					
Saw sharpening machines, wood-working;					
Self-propelled crawler machines, commonly known as bulldozers, with blades;					
Shoemaking industry machines, not including moulding machines;					
Slide fastener making machines;					
Slush drink making and dispensing machines;					
Soft ice-cream making and dispensing machines;					
Speed regulators of the electro-mechanical type for hydraulic and steam turbines;					
Stone working machines;					
Tape embossing machines;					
Textile industry machines, namely: bleaching and dyeing machines, industrial sewing machines; knitting machines, spinning and related machines, weaving machines, including Jacquard machines and Dobby looms;					
Tobacco processing or preparing machines;					
Toothbrush making machines;					
Ultra-sonic cleaners, other than for washing cases;					
Venetian blind making machines;					
Water coolers, office-type drinking fountains with integrally incorporated refrigeration units;					
Parts of the foregoing.					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42700-6 (cont.)</u>					
All of the foregoing to include, subject to tariff item 42700-3, accessories, attachments, control equipment including jacquards and tools for use therewith; parts of the foregoing	Free	Free	35	Free	Free

Except that in the case of the importation into Canada of any goods enumerated in tariff items 42700-1, 42700-2, 42700-3, 42700-4, 42700-5 and 42700-9, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in these items applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

Articles which otherwise would be classified under tariff items 42700-1 to 42700-4, namely: compressor sets, electricity generating sets, fork lift trucks, front-end loaders or tractor shovels, gear reducers, pumps and pump sets, motor operated valves, positive displacement blowers and vacuum pumps, metal working lathes,

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
metal working milling machines, cutting tools for use with metal working machines, arti- culated folding boom-type cranes designed for mounting on trucks; accessories, attachments and control equipment for use there- with; parts of the foregoing:					
<u>Item 42701-1</u>					
Other than the following	2.5	11.4	35	2.5	11.4
Effective...1/1/87		9.2			9.2
<u>Item 42723-1</u>					
Ball and roller bearings for the repair of agricultural imple- ments and agricultural machin- ery specified in tariff items 40900-1, 40902-1, 40904-1, 40906-1, 40908-1, 40910-1, 40912-1, 40914-1, 40916-1, 40918-1, 40920-1, 40924-1, 40928-1, 40932-1, 40934-1, 40936-1, 40942-1, 40944-1, 40948-1, 40950-1, and the trac- tors provided for in tariff item 40938-1; parts thereof					
	Free	Free	Free	Free	Free
<u>Item 42729-1</u>					
Ball and roller bearings, n.o.p.;					
parts thereof	Free	11.4	35	Free	9.2
Effective...1/1/87		9.2			
<u>Item 42730-1</u>					
Steel cages for use in the manu- facture of tapered roller bear- ings					
	Free	Free	35	Free	Free
(Temporary tariff item)					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42732-1</u>					
Machinery and apparatus for dairy- ing purposes, namely: power churns, power milk coolers, power ice cream mixers, power butter printers, power cream savers, power bottle sterili- zers, power brine tanks, valve- less or centrifugal milk pumps, sanitary milk and cream vats; none of the foregoing machinery to include motive power; parts of all the foregoing	Free	5.6	35	Free	Free
Effective...1/1/87		Free			
<u>Item 42733-1</u>					
Machinery for dairying purposes, namely: power fillers and cappers, power milk bottle washers, power milk can washers, ice-breaking machines; none of the foregoing machinery to in- clude motive power; parts of all the foregoing	Free	2.8	35	Free	Free
Effective...1/1/87		Free			
<u>Item 42741-1</u>					
Machines for the manufacture of veneers and plywoods, viz.: - Veneer clippers; veneer clipper knife jointers; veneer glue spreaders; veneer jointers; veneer lathes; automatic veneer reelers with support- ing trays and hoists; auto- matic veneer unreelers; veneer conveyors specially designed for use with automatic veneer reelers and unreelers; veneer taping machines; complete parts of all the foregoing ...	Free	Free	35	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42780-1</u>					
Pulleys, belts for use therewith, tapered roller bearings, all for use in the manufacture of injection molding machines	Free	Free	27.5	Free	Free
(Temporary tariff item)					
<u>Item 42805-1</u>					
Boilers and complete parts there- of, n.o.p.	13.4	13.4	30	8.5	13.4
Effective...1/1/87	12.5	12.5		8	12.5
<u>Item 42805-2</u>					
Engines and complete parts there- of, n.o.p.	11.4	11.4	30	7.5	11.4
Effective...1/1/87	9.2	9.2		6	9.2
<u>Item 42805-3</u>					
Turbines, steam or gas, and com- plete parts thereof, n.o.p.	15	15	30	10	15
<u>Item 42815-1</u>					
Diesel and semi-diesel engines, of a class or kind made in Canada, and parts thereof, n.o.p.	Free	11.4	30	Free	11.4
Effective...1/1/87		9.2			9.2
<u>Item 42816-1</u>					
Diesel and semi-diesel engines, of a class or kind not made in Canada, and parts thereof, n.o.p.	Free	11.4	30	Free	9.2
Effective...1/1/87		9.2			

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 42817-1</u>					
Diesel and semi-diesel engines of 500 horsepower or less, and com- plete parts thereof, n.o.p.	Free	11.4	30	Free	9.2
Effective...1/1/87		9.2			
<u>Item 43803-1</u>					
Automobiles and motor vehicles of all kinds, n.o.p.; electric trackless trolley buses; chassis for all the foregoing	Free	11.4	27.5	Free	9.2
Effective...1/1/87		9.2			
Machines or other articles mounted on the foregoing or attached thereto for purposes other than loading or unloading the vehicle shall be valued separately and duty assessed under the tariff items regularly applicable thereto.					

Ammeters;					
Arm rests and wheel housing lining of indurated fibre, pressed to shape;					
Axle housings, one piece welded, machined or not, including parts welded thereto;					
Carburetors;					
Chassis frames and steel shapes for the manufacture therefor;					
Cigar and cigarette lighters, whether in combination with a cigarette holder or not, in- cluding base;					
Composite frame and floor struc- ture of metal in the rough;					
Control ventilator gear box;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
Cylinder lock barrels, with or without sleeves and keys therefor;					
Dash heat indicators;					
Door opening weatherseal retainers;					
Engine speed governor units;					
External ornaments unplated, including name plates, letters and numerals, but not including finish or decorative mouldings;					
Fluid couplings with or without drive plate assemblies;					
Gauges, gasoline, oil or air;					
Grilles not plated, polished or not before assembly, and parts thereof not plated or polished after final forming, casting or piercing, not including added finish or decorative mouldings;					
Hinges, finished or not, for bodies;					
Horns;					
Instrument bezel assemblies; instrument board lamps; instrument panel, glove compartment, luggage compartment, hood compartment and door step lamps and wire assemblies;					
Instrument board panels of moulded or laminated glass fibres and plastic;					
Locks, electric ignition, steering gear, transmission, or combinations of such locks;					
Mouldings of metal, with nails or prongs set in position, lead filled or not;					
Oil filter parts, namely: perforated filter refill oil board bodies, refill end discs, and roll-seam perforated tubes;					

APPENDIX II (CONT.)

B.P.

M.F.N.

Gen.

G.P.

U.K. &
Ire.

- per cent -

Ornaments and identification plates of metal, unplated, not including finished or decorative mouldings;

Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor;

Purifiers for gasoline, including brackets and fittings therefor;

Radiator shutter assemblies, automatic;

Radiator water gauges;

Radiator shells not plated nor metal finished in any degree;

Reclining seat mechanisms;

Shackles, bearing spring;

Speedometers;

Spring covers of metal and closing strips or shapes therefor;

Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles, of plain or coated metal, in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree, including such stampings incorporating pierce or clinch nuts;

Steering wheels, rims and spiders therefor;

Sun visor blanks of gypsum weatherboard;

Swivel seat mechanisms;

Tachometers, with or without tachographs, both electric and gear driven;

Thermostatic controls;

Throttle, spark, choke, and hood lock release assemblies, including buttons therefor;

Torque converters;

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
Auxiliary transmission overdrive units and controls therefor; Universal joint ball assemblies; Windshield and window wipers; Parts of all the foregoing, in- cluding brackets, fittings and connections therefor;					

Item 43810-1

All of the foregoing when for
use in the manufacture or repair
of the goods enumerated in tariff
items 41006-1, 42400-1 and
43803-1, or for use in the manu-
facture of parts therefor

Free	9.7	30	Free	8
	8			

Effective...1/1/87

Item 43829-1

Parts, n.o.p., electro-plated or
not, whether finished or not,
for automobiles, motor vehicles,
electric trackless trolley
buses, fire fighting vehicles,
ambulances and hearses, or
chassis enumerated in tariff
items 42400-1 and 43803-1, in-
cluding engines, but not in-
cluding ball or roller bearings,
wireless receiving sets, die
castings of zinc, electric
storage batteries, parts of
wood, tires and tubes or parts
of which the component material
of chief value is rubber

Free	11.4	35	Free	9.2
	9.2			

Effective...1/1/87

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
Brake linings and clutch facings, whether or not including metallic wires or threads, for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses, or chassis enumerated in tariff items 42400-1 and 43803-1					
<u>Item 43832-1</u>					
When made wholly or in part from crude asbestos of British Commonwealth origin	Free	14.6	35	Free	11.3
Effective...1/1/87		11.3			
<u>Item 43833-1</u>					
When made wholly or in part from crude asbestos, n.o.p.	14.6	14.6	35	9.5	14.6
Effective...1/1/87	11.3	11.3		7.5	11.3

<u>Item 43842-1</u>					
Body bottom cross members and steel shapes for the manufacture thereof;					
Bumpers, front and rear, including spring steel bumper plates;					
Casket tables or platforms for hearses;					
Destination and route sign assemblies, illuminated or not;					
Direction signals, illuminated or not;					
Door and step mechanism, hand, vacuum or air operated;					
Door locks and catches;					
Electric switches, buzzers, bells, push buttons, fuse assemblies;					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 43842-1 (cont.)</u>					
Forward drive control conversion assemblies;					
Lamps of all kinds, illuminating and indicating, including sockets, flanges, terminals, glassware, lenses and gaskets therefor, assembled or not, but not to include lamp bulbs, sealed beam units, and electric head lamps;					
Metal stampings and assemblies thereof, whether or not coated with oil, primer or sound deadening compound;					
Rubber fenders;					
Seat operating mechanisms;					
Ventilators, including motor driven fan type, and grilles;					
Window operating mechanisms;					
Parts of all the foregoing;					
All of the foregoing when imported to be used only in the manufacture or repair of motor truck bodies, motor bus bodies, electric trackless trolley bus bodies, fire fighting vehicles, ambulances and hearses	Free	Free	20	Free	Free

Item 43855-1

Sheet or strip of iron or steel, hot- or cold-rolled, other than stainless steel and cold-rolled steel made to specification S.A.E. 4130, for use in the manufacture of seat belt floor fittings and buckles for motor vehicles	Free	Free	20	Free	Free
---	------	------	----	------	------

(Temporary tariff item)

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 43864-1</u> ^(a)					
Unserviceable parts of internal combustion engines, commonly known as "cores", for remanufacturing in Canada, namely: electric starter motors, generators and alternators, 32 volts or less. Parts, of a class or kind not made in Canada, for use in the remanufacture of the foregoing electric starter motors, generators or alternators	Free	Free	27.5	Free	Free
(<u>Temporary tariff item</u>)					

Ships, vessels, dredges, scows, yachts, boats and other water borne craft and floating, submersible or semi-submersible structures such as docks, caissons, pontoons, coffer-dams, production platforms, drilling ships, drilling barges, drilling rigs, jack-up drilling platforms and other drilling platforms; combinations of all the foregoing; all of the foregoing whether or not self-propelled, assembled or complete:

<u>Item 44000-1</u>					
Other than the following	25	25	25	25	25

<u>Item 44001-1</u>					
Drilling ships, drilling barges, drilling rigs, jack-up drilling platforms and other drilling platforms; combinations thereof	20	20	20	20	20

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44002-1</u>					
Ships and other vessels, for use in the commercial fishing industry, exceeding 30.5 metres registered length	Free	Free	25	Free	Free
<u>Item 44003-1</u>					
Boats, open, including sail boats, skiffs and canoes; yachts and pleasure boats, not exceeding 9.2 metres in length overall	15	15.9	25	10.5	15
Effective...1/1/87		15			
<u>Item 44005-1</u>					
Yachts and pleasure boats, ex- ceeding 9.2 metres in length overall	15	18.8	25	12.5	15
Effective...1/1/87		15			
<u>Item 44006-1</u>					
Life boats specially imported by societies to encourage the saving of human life	Free	Free	Free	Free	Free
<u>Item 44009-1</u>					
Racing shells, when imported by amateur rowing clubs for use exclusively by such clubs	Free	Free	25	Free	Free
The Governor in Council, on the recommendation of the Min- ister of Finance, may make regulations reducing or removing any customs duties imposed under this Act on goods imported under					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
- per cent -					
tariff items 44000-1 to 44009-1 inclusive in such circumstances and under such terms and conditions as are prescribed in the regulations.					

Anchors for the goods enumerated in tariff items 44000-1 to 44009-1 inclusive:					
<u>Item 44012-1</u>					
Weighing less than 18 kg	11.4	11.4	25	7.5	11.4
<u>Item 44013-1</u>					
Weighing 18 kg or over	Free	Free	Free	Free	Free

<u>Item 44019-1</u>					
Iron or steel masts, or parts thereof; iron or steel angles, beams, knees, plates and sheets; cable chain; all the foregoing for the goods enumerated in tariff items 44000-1 to 44009-1 inclusive, under regulations prescribed by the Minister					
	Free	Free	Free	Free	Free
<u>Item 44025-1</u> ^(a)					
Diesel and semi-diesel engines, of a class or kind not made in Canada, and complete parts thereof, for use exclusively in the construction or equipment of goods enumerated in tariff items 44000-1 to 44009-1 inclusive					
	Free	Free	Free	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44028-1</u>					
Chronometers and compasses, and parts thereof, including cards therefor, for aircraft or for the goods enumerated in tariff items 44000-1 to 44009-1 inclusive	Free	Free	Free	Free	Free
<u>Item 44034-1</u>					
Trawls, trawling spoons, fly hooks, hooks, sinkers, swivels, bait, sportsmen's fishing reels, fishing rods, and fishing tackle, n.o.p.	Free	12.9	30	Free	10.2
Effective...1/1/87		10.2			
<u>Item 44037-1</u>					
Engines and parts thereof, n.o.p., for use in boats used exclusively in commercial fishing operations under such regulations as the Minister may prescribe ..	Free	Free	15	Free	Free
<u>Item 44040-1</u>					
Materials and articles for the manufacture or repair of the engines provided for in item 44037-1	Free	Free	15	Free	Free
<u>Item 44053-1</u>					
Parts of aircraft, n.o.p.	Free	Free	27.5	Free	Free
<u>Item 44057-1</u>					
Parts of aircraft engines, n.o.p.	Free	Free	27.5	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44060-1</u>					
Civil aircraft; aircraft engines for use in civil aircraft	Free	Free	27.5	Free	Free
<u>Item 44062-1</u>					
Hinges entitled to entry under tariff items 35200-1, 35400-1 and 36215-1;					
Furniture entitled to entry under tariff items 35400-1, 44603-1, 61800-1 and 93907-1;					
Castings entitled to entry under tariff items 35400-1 and 39000-1;					
Forgings entitled to entry under tariff item 39200-1;					
Sealed-beam lamps entitled to entry under tariff item 44504-1;					
Microphones entitled to entry under tariff item 44536-1;					
Magnesium castings entitled to entry under tariff item 71100-1;					
Goods except parts, entitled to entry under tariff items 44028-1, 44300-1, 44514-1, 44538-1, 44540-1 and 46200-1;					
Goods entitled to entry under tariff items 31200-1, 36800-1, 41417-1, 41417-2, 41505-1, 41505-2, 42400-1, 42405-1, 42700-1, 42701-1, 43005-1, 43300-1, 44053-1, 44057-1, 44059-1, 44500-1, 44502-1, 44516-1, 44524-1, 44532-1, 44533-1, 47100-1 and 61815-1.					
All the foregoing when for use in the manufacture, repair, main- tenance, rebuilding, modification or conversion of the goods enu- merated in tariff item 44060-1 ...	Free	Free	27.5	Free	Free

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44210-1</u> ^(a)					
Rotors, blade diaphragms, spindle discs, shafts and blades, wholly or in chief part of metal, of a class or kind not made in Canada, when imported for use in the repair or remanufacture of gas or steam turbines and parts thereof entitled to entry under tariff item 42805-3	Free	Free	Free	Free	Free
<u>Item 44300-1</u>					
Apparatus, and parts thereof, for cooking or for heating buildings, not to include commercial food processing machines, namely, continuous pressure and atmospheric preheaters and cookers, and parts thereof, for sterilizing or for cooking or for both sterilizing and cooking food products in hermetically sealed containers	14.6	14.6	30	9.5	14.6
Effective...1/1/87	11.3	11.3		7.5	11.3
<u>Item 44500-1</u>					
Electric light fixtures and appliances, n.o.p., and complete parts thereof	14.6	14.6	30	9.5	14.6
Effective...1/1/87	11.3	11.3		7.5	11.3
<u>Item 44503-1</u>					
Parts of electric light fixtures and appliances which would otherwise be classified under					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
- per cent -					
<u>Item 44503-1 (cont.)</u>					
tariff item 44500-1, but not including electric cords, plugs, sockets, switches, connectors, ballasts, or assemblies incorporating any of the foregoing	14.6	14.6	30	9.5	14.6
Effective...1/1/87	11.3	11.3		7.5	11.3
<u>Item 44512-1</u>					
Electric and galvanic batteries, n.o.p., and complete parts thereof, including separator walls of wood, cut to size or not	12.9	12.9	27.5	8.5	12.9
Effective...1/1/87	10.2	10.2		6.5	10.2
<u>Item 44518-1</u>					
Electric insulators of all kinds, n.o.p., and complete parts thereof	11.4	11.4	27.5	7.5	11.4
Effective...1/1/87	9.2	9.2		6	9.2

Electric apparatus and complete parts thereof, n.o.p.:					
<u>Item 44524-1</u>					
Other than the following	12.9	12.9	30	8.5	12.9
Effective...1/1/87	10.2	10.2		6.5	10.2

<u>Item 44526-1</u>					
Electric storage batteries, composed of plates measuring not					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44526-1 (cont.)</u>					
less than eleven inches by four- teen inches and not less than three-quarters inch in thick- ness; complete parts thereof ...	Free	12.9	27.5	Free	10.2
Effective...1/1/87		10.2			
<u>Item 44532-1</u> (a)					
Electrical instruments and appara- tus of precision of a class or kind not made in Canada, viz.: -Meters or gauges for indicating and/or recording altitude, amperes, comparisons, capacity, density, depth, distance, elec- trolysis, flux, force, fre- quency, humidity, inductance, liquid levels, ohms, operation, power factor, pressure, space, speed, stress, thrust, syn- chronism, temperature, time, volts, volume, watts, weight; complete parts thereof.....	Free	2.8	30	Free	Free
Effective...1/1/87		Free			

Radio and television apparatus and parts thereof, n.o.p.:					
<u>Item 44533-1</u>					
Other than the following	Free	11.4	25	Free	9.2
Effective...1/1/87		9.2			

Manufactures, articles or wares, of iron or steel or of which iron or steel or both are the component materials of chief value, n.o.p.:					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 44603-1:</u>					
Other than the following	10	12.9	35	8.5	10.2
Effective...1/1/87		10.2		6.5	

<u>Item 44705-1</u>					
Sand cast rolls and chilled cast iron rolls, for use exclusively in rolling iron or steel, or in manufacturing paper	Free	Free	Free	Free	Free
<u>Item 44800-1</u>					
Steel balls and rollers for use only in ball or roller bearings	Free	6.3	10	Free	5.5
Effective...1/1/87		5.5			
<u>Item 45110-1</u>					
Needles, of any material or kind, n.o.p.	10	14.6	35	9.5	11.3
Effective...1/1/87		11.3		7.5	
<u>Item 47600-1</u>					
X-ray apparatus and X-ray film; microscopes, illuminating devices and stands for use therewith; the following surgical, dental, veterinary and diagnostic articles: instruments; sterilizers; cobalt-therapy units; anaesthesia, surgical suction and oxygen administering apparatus including motive power and wall outlets but not piping					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 47600-1</u>					
systems. Parts of all the foregoing; electric light lamps designed for use with all the foregoing; portable cases and containers for all the foregoing	Free	Free	Free	Free	Free
<u>Item 47815-1</u>					
Auxiliary driving control kits and other equipment designed for attachment to motor vehicles to facilitate their operation by physically disabled persons; parts of the foregoing	Free	Free	Free	Free	Free
<u>Item 47900-1</u>					
Materials and articles for use exclusively in the manufacture of the goods enumerated in tariff items 47600-1, 47605-1, 47805-1, 47810-1, 47815-1, 47820-1, 47826-1, 47830-1 and 47835-1	Free	Free	Free	Free	Free
<u>Item 53417-1</u>					
Press blankets or blanketing, n.o.p., for use with printing presses	10	13.8	25	9	12.5
Effective...1/1/87		12.5		8	

Woven fabrics, wholly or in part of man-made fibres or filaments or of glass fibres or filaments,					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
not containing wool or hair, not including fabrics more than fifty per cent, by weight, of silk:					
<u>Item 56205-1</u>					
Exceeding 30 cm in width	20.2	25	45		25
..... and, per kilogram		7.5 cts.	40 cts.	-	
Effective...1/1/87		25			25
<u>Item 56206-1</u>					
Not exceeding 30 cm in width ...	22.5	25	55		25
Woven fabrics containing five per cent or less, by weight, of man-made fibres of filaments or of glass fibres or filaments shall not be dutiable under items 56205-1 and 56206-1 but shall be dutiable as though composed wholly of the remain- ing constituents					

<u>Item 56510-1</u>					
Braids of all kinds, n.o.p.	18	21.3	40		20
Effective...1/1/87		20			
All of the above enumerated goods in item 56510-1 except elastic braid				14	
.....Effective...1/1/87				13	
<u>Item 56700-1</u>					
Sails for boats and ships, textile fabrics, in the web or with fused edges, for use in the manufacture of such sails	15	20	25	13	20

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 71100-1</u>					
All goods not enumerated in this schedule as subject to any other rate of duty, and not otherwise declared free of duty, and not being goods the importation whereof is by law prohibited	12.9	12.9	25	8.5	12.9
Effective....1/1/87	10.2	10.2		6.5	10.2

Duty shall not be deemed to be provided for by this item upon dutiable goods mentioned as "n.o.p." in any other tariff item.

When the component material of chief value in any non-enumerated article consists of dutiable material enumerated in this schedule as bearing a higher rate of duty than is specified in this tariff item, such non-enumerated article shall be subject to the highest duty that would be chargeable thereon if it were composed wholly of the component material thereof of chief value, such "component material of chief value" being that component material which exceeds in value any other single component material in its condition as found in the article.

92818 - Oxides, hydroxides and peroxides, of strontium or barium; hydroxides and peroxides of magnesium; magnesium oxide, howsoever produced, not less than 94 per cent pure:

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 92818-2</u>					
Magnesium oxide, howsoever produced, not less than 94 per cent pure	Free	Free	Free	Free	Free

92828 - Hydrazine and hydroxylamine and their inorganic salts; other inorganic bases and metallic oxides, hydroxides and peroxides:					
<u>Item 92828-2</u>					
Antimony oxides	Free	4.7	25	Free	Free
(<u>Temporary rate reduction</u>)		Free			
Effective...1/1/87		Free			

92838 - Sulphates (including alums) and persulphates:					
<u>Item 92838-11</u>					
Ferrous sulphate, other than exsiccated U.S.P.	Free	9.1	15	Free	8.5
Effective...1/1/87		8.5			

92923 - Single or complex oxygen-function amino-compounds:					
<u>Item 92923-1</u>					
Other than the following	10	13.4	25	8.5	12.5
Effective...1/1/87		12.5		8	

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 92923-1</u>					
(A: Temporary rate reduction)	Free			Free	12.5
with the exception of the fol- lowing:					
The dibasic and tribasic calcium, iron and potassium salts of diethylenetriamine- penta-acetic acid;					
Dihydroxyaluminum aminoacetate (aluminum glycinate, basic);					
Ethylenediaminetetra-acetic acid, its sodium salts, and its dibasic and tribasic calcium, iron and potassium salts;					
The dibasic and tribasic calcium, iron and potassium salts of hydroxyethylene- diaminetriacetic acid;					
Pentasodium diethylenetriamine- pentaacetate;					
Sodium-N, N-di-(2-hydroxyethyl) aminoacetate;					
Trisodium hydroxyethylene- diaminetriacetate;					
Goods admissible to free entry under British Prefer- ential Tariff, for use only in the manufacture of goods des- cribed in headings 93901 to 93905 inclusive					
		Free			Free
(B: Temporary rate reduction)					
Goods admissible to free entry under British Prefer- ential Tariff, for use in the manufacture of additives for heating, lubricating and fuel oils					
		5			5
(C: Temporary rate reduction)					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				

92931 - Organo-sulphur compounds:					
<u>Item 92931-1</u>					
Other than the following	10	13.4	25	8.5	12.5
Effective...1/1/87		12.5		8	
<u>All Goods</u>				Free	
(A: <u>Temporary rate reduction</u>)	Free				12.5
with the exception of the fol- lowing:					
Diamylammonium diamyldithio- carbamate;					
Disodium ethylenebisdithio- carbamate;					
Manganese ethylenebisdithio- carbamate;					
Selenium diethyldithiocarbamate;					
Sodium diethyldithiocarbamate;					
Sodium dimethyldithiocarbamate;					
Tetramethylthiuram disulphide;					
Tetramethylthiuram monosulphide;					
Zinc dibutyldithiocarbamate;					
Zinc diethyldithiocarbamate;					
Zinc dimethyldithiocarbamate;					
Zinc ethylenebisdithiocarbamate.					
Goods admissible to free entry under British Prefer- ential Tariff, for use only in the manufacture of goods des- cribed in headings 93901 to 93905 inclusive			Free		Free
(B: <u>Temporary rate reduction</u>)					
Goods admissible to free entry under British Prefer- ential Tariff, for use in the manufacture of additives for heating, lubricating and fuel oils			5		5
(C: <u>Temporary rate reduction</u>)					

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				

92944 - Antibiotics:					
<u>Item 92944-1</u>					
Other than the following	10	10	25	6.5	10
Effective...1/1/87	9.2	9.2		6	9.2
(A: <u>Temporary rate reduction</u>)	Free			Free	9.2
with the exception of the fol- lowing:					
Ampicillin trihydrate					
Amoxicillin trihydrate					
Goods admissible to free entry under British Prefer- ential Tariff, for use only in the manufacture of goods des- cribed in headings 93901 to 93905 inclusive					
		Free			Free
(B: <u>Temporary rate reduction</u>)					
Goods admissible to free entry under British Prefer- ential Tariff, for use in the manufacture of additives for heating, lubricating and fuel oils					
		5			5
(C: <u>Temporary rate reduction</u>)					

93207 - Other colouring matter; inorganic products of a kind used as luminophores:					
<u>Item 93207-3</u>					
Inorganic pigments, n.o.p.	10	13.4	25	8.5	12.5
Effective...1/1/87		12.5		8	

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
--	-------------	---------------	-------------	-------------	----------------------------

- per cent -

Item 93402-1

Organic surface-active agents; surface-active preparations and washing preparations, whether or not containing soap	10	13.4	25	8.5	12.5
Effective...1/1/87		12.5		8	

93404 - Synthetic wax; waxes con-
taining synthetic wax:

Item 93404-1

Other than the following	8	8	25	Free	8
Effective...1/1/87	6.8	6.8			6.8

93803 - Activated carbon (decol-
ourising, depolarising or ad-
sorbent); activated diatomite,
activated clay, activated
bauxite and other activated
natural mineral products:

Item 93803-2

Activated clay	10	13.4	25	8.5	12.5
Effective...1/1/87		12.5			

93819 - Chemical products and
preparations of the chemical or
allied industries (not in-
cluding those consisting of
mixtures of natural products
other than compounded extenders
for paints), n.o.p.; residual
products of the chemical or
allied industries, n.o.p.; not
including soap, nor pharma-
ceutical, flavouring, perfumery,
cosmetic or toilet preparations:

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 93819-1</u>					
Other than the following	10	13.4	25	8.5	12.5
Effective...1/1/87		12.5		8	

Item 93819-5

Catalyst preparations for cracking petroleum, other than the fluid-bed type	Free	Free	25	Free	Free
---	------	------	----	------	------

Item 93819-18

Materials, containing not less than 92 p.c. by weight of aluminum oxide, for use in the manufacture of hydro- treating catalysts	Free	Free	25	Free	Free
--	------	------	----	------	------

(Temporary tariff item)

93901 - Condensation, polycondensation and polyaddition products, whether or not modified or polymerised, and whether or not linear (for example, phenoplasts, aminoplasts, alkyds, polyallyl esters and other unsaturated polyesters, silicones):

(a) Without admixture other than an agent necessary to prevent caking, including scrap and waste; aqueous emulsions, aqueous dispersions or aqueous solutions, without other admixture:

Item 93901-10

Epoxies;
Melamine-formaldehydes;
Phenol-formaldehydes;
Polyamides;

APPENDIX II (CONT.)

	<u>B.P.</u>	<u>M.F.N.</u>	<u>Gen.</u>	<u>G.P.</u>	<u>U.K. & Ire.</u>
	- per cent -				
<u>Item 93901-10 (cont.)</u>					
Polybutylene adipate; Polyethers; Polypropylene adipate; All the foregoing not including ion-exchange resins	9.1	9.1	20	6	9.1
Effective...1/1/87	8.5	8.5		5.5	8.5
<u>Item 95002-1</u>					
All parts and accessories and parts thereof, except tires and tubes, when imported for use as original equipment in auto- mobiles to be produced in Canada by a manufacturer of automobiles	Free	Free	-	-	-
<u>Item 95004-1</u>					
All parts, and accessories and parts thereof, except tires and tubes, when imported for use as original equipment in buses to be produced in Canada by a manufacturer of buses	Free	Free	-	-	-
<u>Item 95006-1</u>					
All parts, and accessories and parts thereof, except tires, tubes and machines or other articles required under tariff item 43803-1 to be valued separately under the tariff items regularly applicable thereto, when imported for use as original equipment in speci- fied commercial vehicles to be produced in Canada by a manu- facturer of specified commer- cial vehicles	Free	Free	-	-	-

(a) Tariff item studied in Phase I of the present inquiry.

APPENDIX III

VALUE OF IMPORTS UNDER SPECIFICALLY REFERRED
AND RELATED TARIFF ITEMS, 1975-1983

A. REFERRED TARIFF ITEMS

<u>Tariff Item</u>	<u>Average 1975-77</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
- \$'000 -							
21950-1	17,236	34,951	42,083	41,985	43,185	45,822	49,858
30620-1	-	10	-	1	-	-	-
31500-1(a)	1,754	2,591	3,519	4,709	4,299	2,702	1,980
32645-1	6,807	6,412	3,578	2,966	2,909	1,866	3,115
32669-1	238	210	268	269	265	91	122
35235-1	195	214	765	466	43	5	-
39225-1(b)	-	-	-	354	99	7	-
40700-1	10,490	15,795	18,700	22,141	16,922	11,621	12,305
41106-1(c)	-	588	386	321	441	315	194
42726-1	39,630	46,244	81,660	101,768	114,721	91,195	83,990
43806-1	46,969	65,400	82,384	73,699	98,505	79,836	90,874
43807-1	15,479	18,666	21,944	20,121	27,163	23,254	27,723
43811-1	77	18	80	170	408	438	97
43812-1	64	60	9	32	69	86	9
43813-1	16	-	2	1	1	1	(e)
43814-1	274	303	182	395	352	1,094	114
43815-1	65	152	20	38	130	26	35
43816-1	32,653	41,844	56,415	49,299	65,394	52,009	52,531
43819-1	8,029	22,863	39,989	31,441	43,156	30,591	25,697
43820-1	11,556	10,754	10,570	8,884	8,382	6,058	5,109
43821-1	85,657	138,037	176,363	172,504	193,249	143,080	162,511
43824-1	119	246	456	720	1,152	1,251	754
43825-1	160	166	155	281	251	25	21
43826-1	3,473	4,590	6,849	6,344	6,023	4,571	3,562
43861-1	427	156	292	326	287	304	287
43877-1	51,797	92,579	107,762	89,097	114,535	103,916	178,245
44022-1	87,260	113,073	164,707	159,382	178,346	136,682	167,227
44059-1	172,926	266,778	426,549	563,482	562,140	463,728	435,758
44205-1	91,335	135,224	161,568	163,101	253,148	183,173	254,156
44305-1	1,386	1,695	3,677	1,994	1,649	3,126	2,548
44560-1	524	886	1,117	1,203	1,015	1,177	1,080
44569-1	186	312	291	230	257	238	226
44643-1	736	516	749	671	593	523	563
46400-1	19	-	19	3	14	57	-
47605-1(a)	4,756	4,683	6,763	5,810	7,931	7,936	10,091
47615-1	4,177	4,643	5,214	6,874	10,613	13,956	11,808
53415-1	265	368	456	461	723	397	611

APPENDIX III (CONT.)

<u>Tariff Item</u>	<u>Average 1975-77</u>	<u>1978</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
- \$'000 -							
56255-1	466	494	831	704	992	721	975
56705-1	1,015	1,282	2,042	2,952	3,157	2,712	2,865
56710-1	44	16	11	12	8	9	30
56930-1	115	116	133	194	356	73	93
56935-1	(e)	-	11	-	-	-	4
68200-1(a)	11,561	21,571	31,230	20,419	16,418	14,788	16,399
85800-1	740	1,213	319	499	1,219	2,028	3,649
86000-1	4,640	6,177	7,631	15,776	15,857	15,731	9,529
86400-1	388	742	604	298	238	228	474
92944-2	303	888	352	571	342	649	43
93819-14	6,397	9,412	9,082	31,636	24,152	18,079	27,014
97052-1(d)	..	..	..	..	..	..	..
97053-1(d)	..	..	..	..	..	..	..
97056-1(d)	..	..	..	..	..	..	..
97071-1(d)	..	..	..	..	..	..	..

B. RELATED TARIFF ITEMS

<u>Tariff Item</u>	<u>Average 1975-79</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
- \$'000 -					
29610-1	606	684	1,400	1,357	865
30505-1	231	643	701	1,004	544
30515-1	1,152	1,884	2,643	3,016	3,234
30700-1	338	938	857	1,003	1,728
30705-1	1,741	2,816	3,878	3,841	4,455
31505-1	3,973	11,192	9,018	6,020	9,035
31600-1	167	102	391	929	822
32607-1(f)	-	13	28	57	61
32646-1(g)	5,334	8,344	6,395	2,622	4,544
32647-1(h)	-	-	2,176	2,780	3,714
32660-1	3,554	3,278	3,433	2,810	3,380
33502-1	62	74	47	2	5
35200-1	81,760	120,919	128,656	114,158	138,209
39205-1	290	152	269	395	323
39210-1	385	255	359	-	290
40121-1	11,062	16,308	8,423	5,767	7,984
40121-2(f)	-	15,283	7,506	8,194	6,442
40122-1	13,119	15,354	15,184	84,949	18,501

APPENDIX III (CONT.)

<u>Tariff Item</u>	<u>Average 1975-79</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
- \$'000 -					
40123-1	35,223	59,174	77,448	69,842	160,446
40705-1	9,091	13,048	13,372	10,324	11,183
41006-1	108,257	153,896	164,231	126,980	108,185
41100-1	70,601	111,587	85,742	48,424	81,874
41105-1	17,143	13,049	7,313	2,815	1,756
41105-2 ^(f)	-	4,392	4,570	2,775	779
41105-3 ⁽ⁱ⁾	-	-	-	-	3,028
41110-1	30	5	8	(e)	(e)
42400-1	4,558	8,296	7,239	8,256	6,829
42700-1	2,829,463	3,477,154	3,807,595	2,938,412	2,754,529
42700-6 ^(f)	-	441,333	551,729	400,152	426,299
42701-1	275,028	673,337	711,397	468,305	512,199
42723-1	7,008	8,268	6,083	4,397	4,773
42729-1	47,082	73,331	62,490	51,042	55,040
42730-1	1,343	2,014	1,792	1,391	2,040
42732-1	1,237	1,242	1,562	1,962	1,546
42733-1	346	817	570	245	199
42741-1	2,926	2,821	3,868	1,778	2,983
42780-1 ^(j)	28	4	-	-	-
42805-1	72,825	34,125	32,961	25,627	17,362
42805-2 ^(f)	-	39,596	45,109	28,131	25,668
42805-3 ^(f)	-	52,930	58,460	46,755	73,642
42815-1	48,698	76,626	75,100	72,994	57,491
42816-1 ^(k)	5,860	6,464	7,657	6,223	7,395
42817-1	12,817	20,593	27,107	20,589	17,570
43803-1	772,966	1,481,540	2,057,289	1,683,103	2,029,260
43810-1	10,337	12,775	13,788	15,143	17,474
43829-1	389,125	480,001	608,106	524,539	588,039
43832-1	1,598	2,507	2,632	1,822	2,305
43833-1	3,098	3,400	4,301	3,788	3,886
43842-1	3,525	5,036	5,407	4,905	6,173
43855-1	2,827	5,437	7,027	3,355	3,033
43864-1 ^{(l)(m)}	4,779	7,675	10,658	10,489	9,782
44000-1	7,416	4,495	2,930	5,354	339,123
44001-1 ⁽ⁿ⁾	-	-	-	-	129,592
44002-1	13,055	6,283	32,524	7,152	2,002
44003-1	13,839	15,079	17,231	14,037	26,644
44004-1	22,467	26,675	28,499	11,544	10,794
44005-1 ^(f)	-	9,000	23,671	8,109	8,454
44006-1	62	34	30	109	68
44009-1	140	126	102	61	112
44012-1	217	259	297	99	185
44013-1	587	836	1,870	992	1,155

APPENDIX III (CONT.)

<u>Tariff</u> <u>Item</u>	<u>Average</u> <u>1975-79</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
- \$'000 -					
44019-1	17,836	12,965	15,036	13,862	4,465
44025-1 (m)	54,629	88,596	92,034	89,109	75,224
44028-1	1,226	2,252	3,505	4,889	5,014
44034-1	20,059	27,237	27,663	22,930	23,222
44037-1	2,691	4,895	4,795	2,230	2,410
44040-1	1,026	1,602	1,991	1,965	4,375
44053-1 (f)	-	269,484	316,368	287,788	308,301
44057-1 (f)	-	289,839	346,170	277,503	301,765
44060-1 (f)	-	196,165	618,508	353,078	386,588
44062-1 (f)	-	21,738	94,118	45,180	55,316
44210-1 (m)	1,501	5,048	9,010	6,531	13,651
44300-1	135,850	79,670	73,839	73,123	72,501
44500-1	46,952	50,507	61,355	45,786	52,515
44503-1	11,375	23,270	29,923	22,631	24,634
44512-1	34,510	58,727	77,407	60,211	79,242
44518-1	12,367	19,883	17,208	20,843	14,491
44524-1	483,205	612,852	689,950	654,701	686,607
44526-1	165	433	435	130	261
44532-1 (m)	111,927	210,277	283,532	285,212	291,704
44533-1	574,056	308,515	309,042	306,769	403,316
44603-1	554,632	652,723	697,927	592,118	613,674
44705-1	13,567	26,248	27,959	20,265	7,978
44800-1	838	1,374	1,306	1,156	1,630
47600-1	234,040	411,576	475,687	499,266	581,466
47815-1	74	226	325	200	282
47900-1	15,740	39,502	33,643	37,591	38,350
53417-1	2,239	4,255	5,114	5,488	6,357
56205-1	52,143	56,914	60,372	52,703	73,202
56206-1	7,785	9,789	11,806	11,262	13,697
56510-1	3,076	2,751	3,772	3,514	4,316
56700-1	635	1,140	1,708	976	1,532
71100-1	124,531	163,407	162,751	152,416	158,683
92818-2	14,174	25,137	19,707	12,827	16,262
92828-2	2,302	3,413	4,102	3,123	3,553
92838-11	106	70	93	98	254
92923-1	18,201	24,222	32,830	30,717	26,852
92931-1	4,461	6,333	6,366	7,044	8,517
92944-1	27,951	48,257	37,183	33,853	30,981
93207-3	4,371	6,241	7,352	5,923	8,975
93402-1	60,196	81,231	70,137	60,723	67,100
93404-1	3,631	7,376	7,730	6,937	9,313
93819-1	136,800	219,122	243,905	226,868	236,108
93819-5	3,835	4,658	5,501	5,809	5,030

APPENDIX III (CONCL.)

<u>Tariff Item</u>	<u>Average 1975-79</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>
- \$'000 -					
93901-10(o)	-	11,366	26,548	28,799	39,603
95002-1	4,404,587	4,538,835	5,513,225	6,528,892	8,227,271
95004-1	53,047	90,990	130,207	89,053	73,959
95006-1	1,726,175	2,404,288	2,859,532	2,633,450	3,089,281

- (a) Only part of this tariff item has been referred to the Board. The figures pertain to total imports under the entire item.
- (b) Temporary tariff item introduced June 23, 1977.
- (c) Tariff item introduced April 1, 1977.
- (d) Drawback item. Value of relevant imports not available.
- (e) Imports valued at less than \$500.
- (f) Tariff item introduced June 3, 1980.
- (g) Temporary tariff item introduced June 22, 1978.
- (h) Temporary tariff item introduced July 1, 1981.
- (i) Tariff item introduced April 20, 1983.
- (j) Temporary tariff item introduced September 25, 1975.
- (k) Tariff item introduced April 11, 1978.
- (l) Temporary tariff item introduced June 22, 1978.
- (m) Tariff item studied in Phase I of present inquiry.
- (n) Tariff item introduced June 29, 1983.
- (o) Tariff item introduced January 1, 1980.

Source: Statistics Canada, Imports by Tariff Item (computer printouts).

APPENDIX IV

DOMESTIC PRODUCERS OF GOODS NOT PREVIOUSLY
IDENTIFIED AS "MADE IN CANADA"

The original Background Papers circulated by the Board prior to the public hearings in connection with the various groups of tariff items falling within the scope of Reference No. 157, contained listings of Canadian producers of goods encompassed by commodity classes judged, on the basis of a review of import data, to be relevant to the inquiry. The information on which these listings were based was supplied to the Board by the Department of Industry, Trade and Commerce (now the Department of Regional Industrial Expansion) and by knowledgeable members of the business community. In those instances where it was not known whether or not a particular commodity class was made in Canada, this was indicated by an "uncertain" designation in the Background Papers and, subsequently, in the Staff Appraisals.

Following the publication of the Staff Appraisals, partly as a result of subsequent submissions to the Board and partly as a result of other additional information received, Canadian producers of some of these "uncertain" classes of goods were identified, while, in a number of instances, domestic manufacturers of commodities formerly designated as "not made" were also identified. It is this new, supplementary information about Canadian production which is summarized below. Attempts to verify this information have been made wherever possible. It should, however, be noted that the listing of Canadian producers with respect to individual commodity classes does not purport to be fully comprehensive.

A. ALPHABETICAL LISTING OF DOMESTIC PRODUCERS

1. Aircraft Appliances and Equipment Limited, Bramalea, Ont.
c.c.: 503-19-31
2. Alcan Pipe, Division of Alcan Canada Products Limited, Calgary, Alta.
c.c.: 451-40-10
3. Algoma Steel Corporation, Limited, The, Sault Ste. Marie, Ont.
c.c.: 445-02-89; 445-03-89; 445-04-89; 445-31-90; 448-29-59

4. Allis-Chalmers Canada Inc., Lachine, Que.
c.c.: 507-36-32; 507-36-89
5. Associated Tube Industries Limited, Markham, Ont.
c.c.: 448-68-60; 448-68-65
6. Atlas Polar Company Limited, Toronto, Ont.
c.c.: 503-15-32
7. Atlast Steels, A Division of Rio Algom Limited, Welland, Ont.
c.c.: 443-99-59; 443-99-60; 444-27-10; 444-29-49; 445-81-43; 445-85-45
8. BB Howden, Scarborough, Ont.
c.c.: 503-13-30
9. BBC Brown Boveri Canada Inc., Power Distribution Division, Mississauga, Ont.
c.c.: 501-49-69
10. Babcock & Wilcox Canada, A Division of Babcock & Wilcox Industries Ltd., Cambridge, Ont.
c.c.: 501-49-72; 501-49-89; 592-99-30
11. Barber Hydraulic Turbine, A Division of Marsh Engineering Limited, Port Colborne, Ont.
c.c.: 502-39-88
12. Bombardier Inc., Montreal, Que.
c.c.: 502-19-10; 502-99-18; 571-57-10; 592-29-10
13. Bondar Clegg & Company Ltd., Ottawa, Ont.
c.c.: 703-95-90
14. CML Northern Blower Inc., Winnipeg, Man.
c.c.: 507-99-28
15. Canada Alloy Castings Ltd., Kitchener, Ont.
c.c.: 454-99-30
16. Canada Fans, Picton, Ont.
c.c.: 507-99-28
17. Canada Forgings, A Division of Toromont Industries Ltd., Welland, Ont.
c.c.: 443-99-59
18. Canadian Blower/Canada Pumps Limited, Kitchener, Ont.
c.c.: 507-99-28
19. Canadian General Electric Company Limited, Toronto, Ont.
c.c.: 501-49-69; 503-19-31

20. Canadian Lukens Limited, Rexdale, Ont.
c.c.: 445-18-50; 445-18-60
21. Canadian Shipbuilding & Engineering Limited, Collingwood, Ont.
c.c.: 592-99-30
22. Canron Inc., Foundry Division, Mississauga, Ont.
c.c.: 443-25-29; 443-59-89
23. Canuck Engineering Ltd., Calgary, Alta.
c.c.: 703-95-90
24. Chimo Equipment Ltd., Calgary, Alta.
c.c.: 703-95-90
25. Combustion Engineering-Superheater Ltd., Ottawa, Ont.
c.c.: 501-49-72; 501-49-73; 501-49-89; 502-99-58
26. Cooper Energy Services Ltd., Mississauga, Ont.
c.c.: 502-19-10; 502-99-18; 507-36-32; 507-36-89
27. Crothers Ltd., Toronto, Ont.
c.c.: 503-15-32
28. Cullen Detroit Diesel Allison Limited, Burnaby, B.C.
c.c.: 503-15-32
29. Date Industries Limited, Ayr, Ont.
c.c.: 443-25-29; 443-59-89
30. Delaval Turbine Canada Ltd., Maple, Ont.
c.c.: 507-36-32; 507-36-89
31. Diamond Canapower, A Division of Babcock & Wilcox Industries Ltd.,
Burlington, Ont.
c.c.: 501-49-64
32. Dofasco Inc., Hamilton, Ont.
c.c.: 445-02-89; 445-31-90; 445-36-23; 445-99-20
33. Dominion Bridge-Sulzer Inc., Lachine, Que.
c.c.: 501-49-72; 502-39-88; 502-99-58
34. Dominion Engineering Works Limited, Montreal, Que.
c.c.: 443-25-50; 502-39-88; 504-40-20; 504-40-30; 504-44-70
35. Dresser Canada Inc., Orillia, Ont.
c.c.: 507-36-32; 507-36-89
36. Federal Pioneer Limited, Toronto, Ont.
c.c.: 501-49-69

37. Fluidynamic Devices Ltd., Mississauga, Ont.
c.c.: 703-44-90
38. Forano Inc., Plessiville, Que.
c.c.: 443-25-29; 443-59-89; 504-40-20; 504-40-30; 504-44-70
39. Foster Wheeler Limited, Niagara-On-The-Lake, Ont.
c.c.: 592-99-30
40. Galt British Forge Limited, Cambridge, Ont.
c.c.: 443-99-59
41. Hager Hinge Canada Ltd., Kitchener, Ont.
c.c.: 465-53-30; 465-53-90
42. Hamilton Gear and Machine Company, Toronto, Ont.
c.c.: 504-40-20; 504-40-30; 504-44-70
43. Hammond Manufacturing Company Limited, Guelph, Ont.
c.c.: 639-30-88; 683-79-31; 683-79-52; 683-79-90
44. Harris Steel Group Inc., Toronto, Ont.
c.c.: 445-36-23
45. ITT Barton Instruments, Calgary, Alta.
c.c.: 703-44-90
46. Idealco Inc., Montreal, Que.
c.c.: 592-99-30
47. Ingersoll-Rand Canada Inc., Montreal, Que.
c.c.: 507-36-32; 507-36-89
48. Joy Manufacturing Company (Canada) Limited, Fan Division, Winnipeg, Man.
c.c.: 507-99-28
49. Kanmet, A Division of Massey-Ferguson Industries Limited, Cambridge, Ont.
c.c.: 443-25-29; 443-59-89
50. Larson & Shaw, Limited, Walkerton, Ont.
c.c.: 465-53-30; 465-53-90
51. Lethbridge Iron Works Co., Limited, Lethbridge, Alta.
c.c.: 443-25-29; 443-59-89
52. Mandem Division, Asamera Oil Co. Ltd., Montreal, Que.
c.c.: 503-15-32
53. Marine Industries Limitée, Sorel, Que.
c.c.: 502-39-88; 592-99-30

54. Matheson, I., & Co. (1974) Limited, New Glasgow, N.S.
c.c.: 592-99-30
55. Mechron Engineering Products Ltd., Ottawa, Ont.
c.c.: 503-15-32
56. Monarch Industries Limited, Winnipeg, Man.
c.c.: 443-25-29
57. Nor-Sand Metals Inc., Arnprior, Ont.
c.c.: 448-68-65
58. Novatronics of Canada Limited, Stratford, Ont.
c.c.: 503-69-20; 503-69-29
59. Pendell Boiler, Limited, Toronto, Ont.
c.c.: 592-99-30
60. Pyramid Transit Products Ltd., Pointe Claire, Que.
c.c.: 681-73-20
61. Reynolds Aluminum Company of Canada Ltd., Cap-De-La-Madeleine, Que.
c.c.: 451-40-10
62. Sheldons Engineering Limited, Cambridge, Ont.
c.c.: 507-99-28
63. Sidbec-Dosco Inc., Montreal, Que.
c.c.: 445-31-90
64. Slater Steel Industries Limited, Crucan Division, Sorel, Que.
c.c.: 443-99-59; 443-99-60
65. Stelco Inc., Canadian Drawn Works, Hamilton, Ont.
c.c.: 444-27-10; 444-29-49; 444-90-90; 445-02-89; 445-03-89;
445-04-89; 445-31-90; 445-36-23; 445-36-79; 445-99-20;
448-38-75; 448-44-55; 448-49-59
66. Taylor Instrument Division, Sybron Canada Limited, Toronto, Ont.
c.c.: 703-44-90
67. Trenton Works Division, Hawker Siddeley Canada Inc., Trenton, N.S.
c.c.: 443-99-59
68. Versatile Vickers Inc., Montreal, Que.
c.c.: 502-99-58
69. Volcano Inc., St. Hyacinthe, Que.
c.c.: 501-49-72; 501-49-73; 501-49-89
70. Welland Iron & Brass Limited, Welland, Ont.
c.c.: 443-25-29; 443-59-89

71. Welmet Industries Limited, Welland, Ont.
c.c.: 454-99-30
72. Westinghouse Canada Inc., Hamilton, Ont.
c.c.: 501-49-69; 502-40-89; 503-13-30; 503-19-31
73. Wilson Machine Co. Ltd., Lasalle, Que.
c.c.: 504-40-20; 504-40-30; 504-44-70

B. NUMERICAL LISTING OF COMMODITY CLASSES

- 443-25-29 Grey iron castings, rough, nes
producer: 22; 29; 38; 49; 51; 56; 70
- 443-25-50 Grey iron castings, rough, sand cast rolls
producer: 34
- 443-59-89 Steel castings, alloy steel, nes, rough, unfinished
producer: 22; 29; 38; 49; 51; 70
- 443-99-59 Steel forgings, alloy steel, nes, flat or open die, rough,
unfinished
producer: 7; 17; 40; 64; 67
- 443-99-60 Steel forgings, mold steel, rough, unfinished
producer: 7; 64
- 444-27-10 Flat bars, alloy steel, nes, hot rolled
producer: 7; 65
- 444-29-49 Bars, alloy steel, nes, hot rolled, rounds
producer: 7; 65
- 444-90-90 Bars, alloy steel, nes, cold drawn or cold finished
producer: 65
- 445-02-89 Plates, carbon steel, nes, 60" wide & less, cut lengths
producer: 3; 32; 65
- 445-03-89 Plates, carbon steel, nes, over 60" to 100" wide, cut lengths
producer: 3; 65
- 445-04-89 Plates, carbon steel, over 100" wide, cut lengths
producer: 3; 65
- 445-18-50 Plates, steel, elliptical heads
producer: 20
- 445-18-60 Plates, steel, spherical heads
producer: 20

- 445-31-90 Strips, carbon steel, hot rolled, nes, 12" wide & less
producer: 3; 32; 63; 65
- 445-36-23 Spring steel, excluding saw steel, carbon steel, cold rolled,
untempered
producer: 32; 44; 65
- 445-36-79 Strips, carbon steel, cold rolled, nes, 12" wide & less
producer: 65
- 445-81-43 Sheet/strip, stainless steel, hot rolled, to 60" wide, 8 to 16
gauge
producer: 7
- 445-85-45 Strips, stainless steel, other than 300 series, cold rolled, to
18" wide, .013" & thicker
producer: 7
- 445-99-20 Sheet/strip, steel, corrugated, coated or not
producer: 32; 65
- 448-29-59 Tubing, mechanical, carbon steel, seamless, nes, new
producer: 3
- 448-38-75 Tubes, pressure, carbon steel, welded, 4.5" O.D. & under, new
producer: 65
- 448-44-55 Tubes/tubing, carbon steel, seamless, hot finished, boiler, new
producer: 65
- 448-49-59 Tubes, pressure, carbon steel, seamless, cold finished, new
producer: 65
- 448-68-60 Tubes/tubing, stainless steel, welded, pressure, new
producer: 5
- 448-68-65 Tubes/tubing, stainless steel, seamless, pressure, new
producer: 5; 57
- 451-40-10 Pipes/tubes, aluminum/aluminum alloy
producer: 2; 61
- 454-99-30 Castings, nickel alloy, unfinished
producer: 15; 71
- 465-53-30 Hinges, continuous
producer: 41; 50
- 465-53-90 Hinges and butts nes
producer: 41; 50

501-49-64 Soot blower, power boiler house
producer: 31

501-49-69 Steam generation power electric equipment, nes
producer: 9; 19; 36; 72

501-49-72 Drums, power boiler
producer: 10; 25; 33; 69

*501-49-73 Heads, power boiler
producer: 25; 69

501-49-89 Boiler house equipment, power, nes
producer: 10; 25; 69

502-19-10 Engines, diesel & semi-diesel, nes, parts of
producer: 12; 26

502-39-88 Turbine, hydraulic, parts of
producer: 11; 33; 34; 53

502-40-89 Turbines, gas, nes, over 20,000 hp
producer: 72

502-99-18 Engines, diesel & semi-diesel, general purpose, accessories
producer: 12; 26

502-99-58 Reactors, atomic/nuclear, general purpose, parts of
producer: 25; 33; 68

503-13-30 Generator sets, steam turbine
producer: 8; 72

*503-15-32 Generator sets, diesel engine, ac, 251-1,000 kw
producer: 6; 27; 28; 52; 55

503-19-31 Armature and rotors, ac generator
producer: 1; 19; 72

503-69-20 Servo motors, electric
producer: 58

503-69-29 Synchro, nes
producer: 58

504-40-20 Gear unit, single reduction, except spiral bevel
producer: 34; 38; 42; 73

504-40-30 Gear unit, double reduction, except spiral bevel
producer: 34; 38; 42; 73

- 504-44-70 Gear unit, power transmission, except reducer/increaser
producer: 34; 38; 42; 73
- 507-36-32 Compressors, gas, stationary, parts of
producer: 4; 26; 30; 35; 47
- 507-36-89 Compressors, gas, nes, parts of
producer: 4; 26; 30; 35; 47
- 507-99-28 Blowers, industrial, parts of
producer: 14; 16; 18; 48; 62
- 571-57-10 Locomotive engines, diesel & semi-diesel
producer: 12
- 592-29-10 Engines, diesel & semi-diesel, marine, parts
producer: 12
- *592-99-30 Boilers & turbines, marine
producer: 10; 21; 39; 46; 53; 54; 59
- 639-30-88 Power supply, electronic, parts of
producer: 43
- 681-73-20 Fixtures, lighting, boat, incandescent
producer: 60
- 683-79-31 Reactors, power, under 500 kva
producer: 43
- 683-79-52 Transformers, instrument
producer: 43
- 683-79-90 Transformers, power, under 500 kva, nes
producer: 43
- 703-44-90 Fluid flow measuring/controlling instruments, nes
producer: 37; 45; 66
- 703-95-90 Measuring, measuring and controlling instruments, parts, nes
producer: 13; 23; 24

* Denotes change in the range or specification of goods as previously published by the Board.

APPENDIX V

PARTIES MAKING SUBMISSIONS TO THE BOARD

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number^(a)</u>
Air Canada, Dorval, Que.	42726-1 44059-1	4 5
Air Industries Association of Canada, Ottawa, Ont.	42726-1 44059-1, 97053-1, 97071-1	4 5
Air Transport Association of Canada, The, Ottawa, Ont.	44059-1, 97053-1, 97071-1	5
Algoma Steel Corporation, Limited, The, Sault Ste. Marie, Ont.	44205-1, 97056-1	7
Allied Enterprises Limited, St-Laurent, Que.	44022-1	5
Anco Products Ltd., Downsview, Ont.	43816-1	6
Aqua-Marine Mfg. Limited, Toronto, Ont.	44022-1	5
Automotive Industries Association of Canada, Ottawa, Ont.	General	6
Ball and Roller Bearing Manufacturers' Association of Canada, The, Willowdale, Ont.	42726-1 44059-1 44205-1	4 5 7
BASF Canada Inc., Montreal, Que.	43877-1	6
Bombardier Inc., Ottawa, Ont.	General	6
Borg-Warner Chemicals, Borg-Warner (Canada) Limited, Cobourg, Ont.	86400-1 43877-1	2 6
British Canadian Trade Associates, The Scarborough, Ont.	44022-1	5
Bundy of Canada Limited, Bramalea, Ont.	41106-1, 43806-1, 43807-1, 43812-1 to 43816-1, 43877-1, 97052-1	6
C & C Yachts Manufacturing Ltd., Niagara-on-the-Lake, Ont.	44022-1	5

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number^(a)</u>
Canadian A.S.E. Limited, Downsview, Ont.	43877-1	6
Canadian Chemical Producers' Association, The, Ottawa, Ont.	43877-1	6
Canadian Fram Limited, Chatham, Ont.	43877-1, 97052-1	6
Canadian General Electric Company Limited, Toronto, Ont.	44205-1	7
Canadian Paint and Coatings Association, Montreal, Que.	43877-1	6
Canadian Textiles Institute, Montreal, Que.	53415-1, 56255-1, 56705-1, 56710-1, 56930-1, 56935-1 93819-14 43877-1	1 2 6
Canadian Timken, Limited, St. Thomas, Ont.	42726-1 43877-1, 97052-1 44205-1	4 6 7
Canadian Tooling Manufacturers' Association, Windsor, Ont.	97052-1	6
Canadian Transport Commission, Hull, Que.	44059-1	5
Certified Brakes (A Lear Siegler Company), Rexdale, Ont.	43806-1, 43816-1	6
Ciba-Geigy, Canada Ltd., Mississauga, Ont.	86400-1	2
Circo Craft Co. Inc., Kirkland, Que.	44059-1	5
Colt Industries (Garlock of Canada Ltd.), Toronto, Ont.	43806-1, 43807-1	6
Columbia Plastics Ltd., Vancouver, B.C.	68200-1 Ex.	7
Cooper Energy Services Ltd., Rexdale, Ont.	44205-1	7
Cyanamid Canada Inc., Willowdale, Ont.	21950-1, 86000-1, 93819-14 47615-1	2 7
Dofasco Inc., Hamilton, Ont.	43816-1, 43819-1, 43861-1, 43877-1	6

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> (a)
Dominion Auto Accessories Limited, Toronto, Ont.	41106-1	6
Dominion Colour Company Ltd., Toronto, Ont.	43877-1	6
Domtar Inc., Montreal, Que.	43877-1	6
Duplate Canada Inc., Oshawa, Ont.	43877-1, 97052-1	6
Du Pont Canada Inc., Mississauga, Ont.	43877-1	6
Durez Plastics and Resins, Canadian Oxy Chemicals Ltd., Fort Erie, Ont.	43877-1	6
Eaton Yale Limited, Cleveland, Ohio, U.S.A.	43816-1	6
Ejoyteurs Canada Limited, Chateauguay, Que.	32645-1	3
Emery Industries Limited, Toronto, Ont.	93819-14	2
Ethicon Sutures Ltd., Peterborough, Ont.	47615-1	7
Euclid Canada Limited, Guelph, Ont.	97052-1	6
Excelsior Roller Bearing Services, Westfield, N.J., U.S.A.	42726-1	4
Fafnir Bearing, Division of Textron Canada Limited, Rexdale, Ont.	42726-1	4
FAG Bearings Limited, Stratford, Ont.	42726-1 43877-1, 97052-1 44205-1	4 6 7
Federal-Mogul Canada Limited, Downsview, Ont.	42726-1	4
Fisheries Council of Canada, Ottawa, Ont.	44022-1	5
Foster Wheeler Limited, St. Catharines, Ont.	44205-1, 97056-1	7
Fram Canada Inc., Stratford, Ont.	43806-1, 43807-1, 43816-1, 43877-1, 97052-1	6
Grace, W.R. & Co. of Canada Ltd., LaSalle, Que.	43877-1	6

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> (a)
Great Circle Trading Company Limited, Weston, Ont.	44022-1	5
Gulf Canada Limited, Toronto, Ont.	86000-1, 93819-14	2
Hammond Manufacturing Company Limited, Guelph, Ont.	44022-1, 44059-1	5
Harrisons & Crosfield (Canada) Ltd., Toronto, Ont.	43877-1	6
Hastings Inc., Scarborough, Ont.	43816-1, 43877-1, 97052-1	6
Hayes-Dana Inc., Drive Train Division, Thorold, Ont.	42726-1, 42729-1 43816-1	4 6
Hayes-Dana Inc., Victor Products, St. Thomas, Ont.	43806-1, 43807-1, 43877-1	6
Hayes-Dana Inc., The Weatherhead Division, St. Thomas, Ont.	43806-1	6
Honeywell Limited, Scarborough, Ont.	44059-1	5
Imperial Oil Limited, Toronto, Ont.	86000-1, 93819-14 43877-1	2 6
JSC Canada Limited, Ville St. Laurent, Que.	44022-1	5
Kilian Manufacturing Limited, Toronto, Ont.	42726-1	4
Kitsmar Canada Ltd., Vancouver, B.C.	44022-1	5
La Compagnie Normand Limitée, St-Pascal (Kamouraska), P.Q.	42726-1	4
Lamb, F. Jos., Co. (Canada) Ltd., Windsor, Ont.	97052-1	6
Litton Systems Canada Limited, Rexdale, Ont.	44022-1, 44059-1, 97053-1, 97071-1	5
M & T Chemicals Ltd., Hamilton, Ont.	86000-1, 86400-1	2
Mariner Distributors Inc., Vancouver, B.C.	44022-1	5
Marine Trades Association of British Columbia, Vancouver, B.C.	44022-1	5

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> ^(a)
May & Baker Canada Inc., Mississauga, Ont.	21950-1	2
Merit Automotive Products Ltd., Toronto, Ont.	43816-1, 43821-1	6
Monsanto Canada Inc., Mississauga, Ont.	21950-1, 86400-1, 93819-14 43877-1	2 6
Motor Vehicle Manufacturers' Association, Toronto, Ont.	General	6
Motor Wheel, Toronto, Ont.	43819-1, 43821-1	6
National Rubber Company Limited, Toronto, Ont.	43877-1, 97052-1	6
NTN Bearing Corporation of Canada, Mississauga, Ont.	42726-1 44205-1	4 7
Ontario Petroleum Association, (OPA), Toronto, Ont.	86000-1, 93819-14	2
Pacific Spar Ltd., Vancouver, B.C.	44022-1	5
Pratt & Whitney Aircraft of Canada Ltd., Longueuil, Que.	42726-1 44059-1	4 5
Procan Automotive Inc., St. Laurent, Que.	43816-1, 43877-1	6
Purolator Products Ltd., Mississauga, Ont.	43816-1, 43877-1	6
Pyramid Transit Products Ltd., Pointe Claire, Que.	44022-1	5
Railway Association of Canada, The, Montreal, Que.	42726-1 44059-1, 97071-1	4 5
Reichhold Limited, Islington, Ont.	43877-1	6
Rekord Marine Ent. Ltd., Vancouver, B.C.	44022-1	5
Revol Agencies Ltd., Newcastle, Ont.	44022-1	5
Reynolds Extrusion Company Limited, Richmond Hill, Ont.	44059-1	5
Rockwell International of Canada Ltd. Toronto, Ont.	41106-1, 43806-1, 43807-1, 43811-1 to 43816-1, 43819-1 to 43821-1, 43826-1, 97052-1	6

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> ^(a)
Rolls-Royce (Canada) Limited, Lachine, Que.	44205-1	7
Rubber Association of Canada, The, Mississauga, Ont.	97052-1	6
Schlegel Canada Inc., Oakville, Ont.	General	6
Seaforth Fednav Limited, Dartmouth, N.S.	44022-1	5
Sealed Power Corporation, Muskegon, 6 Michigan, U.S.A.	43821-1, 43826-1, 44210-1 ^(b)	
Shell Canada, Chemical Company, Toronto, Ont.	43877-1	6
Shell Canada Limited, Toronto, Ont.	85800-1, 86000-1, 93819-14	2
Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont.	43811-1 to 43816-1, 43819-1 to 43821-1, 43824-1 to 43826-1, 43877-1	6
SKF Canada Limited, Scarborough, Ont.	42726-1 44205-1	4 7
Solar Turbines Canada Limited, Edmonton, Alta.	44205-1, 97056-1	7
Spencer Boats Ltd., Richmond, B.C.	44022-1	5
Steel Producers: Algoma Steel Corporation, Limited, The, Sault Ste. Marie, Ont., Atlas Steels, A Division of Rio Algom Limited, Welland, Ont., Dofasco Inc., Hamilton, Ont., Stelco Inc., Hamilton, Ont., Sydney Steel Corporation, Sydney, N.S.	40700-1, 42726-1 44205-1, 97056-1	4 7
Stelco Inc., Hamilton, Ont.	44205-1	7
Thermoset Plastics Ltd., Belleville, Ont.	43806-1, 43807-1	6
Torrington Inc., Bedford, Que.	42726-1 44205-1	4 7

<u>Company or Association/Address</u>	<u>Referred Tariff Item(s)</u>	<u>Group Number</u> (a)
Tuco Products Company, Division of Upjohn, Orangeville, Ont.	21950-1	2
Union Carbide Canada Limited, Toronto, Ont.	31500-1 Ex.	3
Uniroyal Chemical, Division of Uniroyal Ltd., Elmira, Ont.	93819-14 43877-1	2 6
Van Waters & Rogers Ltd., Weston, Ont.	93819-14	2
Volkswagen Canada Inc., Scarborough, Ont.	43806-1, 43816-1, 43821-1, 43826-1, 97052-1	6
Wagner Brake Company Ltd., Bramalea, Ont.	43806-1, 43821-1	6
Webster Mfg. (London) Limited, Webster, Ont.	43806-1, 43807-1	6
Westinghouse Canada Inc., Hamilton, Ont.	44205-1	7
Winfield Chemical Industries Limited & Kew Chemicals Limited, Woodstock, N.B.	General	1 2
Wix Inc., Pickering, Ont.	43877-1, 97052-1	6
Woodard and Company Ltd., Toronto, Ont.	44022-1	5
Wright Mariner Supply Ltd., Vancouver, B.C.	44022-1	5

(a) The numbers refer to:

- 1 - Textile Products
- 2 - Chemicals
- 3 - Electrical Goods
- 4 - Metal Goods
- 5 - Machinery, Materials, Parts and Equipment Used in the Construction or
Equipment of Aircraft and Ships
- 6 - Machinery, Equipment, Parts and Accessories Used in the Manufacture of
Motor Vehicles
- 7 - Miscellaneous Goods II

CAI
FN 55
-81R57B



TARIFF ITEMS COVERING GOODS MADE/NOT MADE IN CANADA

PHASE II

APPRAISALS BY THE STAFF



REFERENCE

157

THE TARIFF BOARD

1984
FN 58
- 71 R 572

THE TARIFF BOARD

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS MADE/NOT MADE IN CANADA

PHASE II

APPRAISALS BY THE STAFF

DECEMBER, 1984

© Minister of Supply and Services Canada 1984

Available in Canada through

Authorized Bookstore Agents
and other bookstores

or by mail from

Canadian Government Publishing Centre
Supply and Services Canada
Ottawa, Canada K1A 0S9

Catalogue No. FT4-157/2-2-1984E

Canada: \$34.25

ISBN 0-660-11758-4

Other countries: \$41.10

Price subject to change without notice

THE TARIFF BOARD

CHAIRMAN

John A. MacDonald

FIRST VICE-CHAIRMAN

Jean P. Bertrand

SECOND VICE-CHAIRMAN

G.J. Gorman, Q.C.

MEMBERS

A.C. Kilbank

K.C. Martin

R.K. Matthie

C.N. Beauchamp

EXECUTIVE DIRECTOR, REFERENCE OPERATIONS

W.L. Posthumus

ECONOMISTS

Dr. P.J. Bowden

H.D. McCree

J.W. Millman

A.Y. Renaud

Ottawa

K1A 0G7

PREFACE

In connection with the inquiry into Reference No. 157, the staff of the Tariff Board prepared and circulated a series of papers in which the facts and viewpoints pertaining to the tariff items under review were assembled and appraised and possible tariff solutions to the problems posed by the reference were set out. Four such Staff Appraisals, covering different groupings of tariff items, were published, the groupings reflecting, in a general kind of way, the end-uses and/or physical characteristics of the goods at issue.

The evidence presented in these staff appreciations has been extensively drawn upon by the Board in the preparation of its own report to the Minister of Finance on Phase II of Reference No. 157, while a reading of the Board's report assumes ready access to this evidence. As an integral part of the inquiry, therefore, these Staff Appraisals are now brought together in a single volume.

The Staff Appraisals, as originally published, are here reproduced in their entirety, except that replicated sections, common to two or more appraisals, have been removed. The original pagination - with the page numbers indicated at the top of the page, and varying with each individual appraisal - has been retained and provides the basis for page references, as appropriate, in the Board's report to the Minister.

In addition, for the purpose of the present consolidation, the pages have been renumbered sequentially throughout, with the numbers appearing at the bottom of the page. The General Table of Contents, set out at the beginning of this volume, has been paginated with reference to this sequential system of numbering. By consulting this table, the reader will be able to locate the individual Staff Appraisals relating to the various groupings of tariff items studied by the Board. From the Table of Contents which appears at the beginning of each Staff Appraisal, the reader may then proceed to the review of individual tariff items.

FOREWORD

This paper is one of a series of four review documents prepared by the staff of the Tariff Board, setting out and appraising the ascertained facts and represented viewpoints of interested parties with respect to tariff items falling into Phase II of Reference No. 157, under which the dutiable status of goods reflects whether or not they are "of a class or kind made/not made in Canada". The paper begins with a general discussion of the issues posed by the reference, drawing attention to possible tariff solutions and the implications thereof, before proceeding to review, on an individual tariff item basis, the evidence pertaining to those items referred to the Board for study comprising the particular group or groups of items herein addressed.

The Board is giving this staff appraisal and its companion reports a wide distribution among interested, and potentially interested parties, for the purpose of eliciting comments and observations thereon, either in writing, or in the context of final public hearings to be held, as advertised, in Ottawa in connection with this phase of Reference No. 157.

It may need to be stressed that this document is not a position paper put out by the Board; indeed, the Board will not be seeing this report prior to its general circulation. As already indicated, this is an appreciation of matters pertaining to the present inquiry, as seen through the eyes of the Board's staff, and, as such, the facts and findings contained therein may be variously confirmed, modified, elaborated, challenged or rejected by those with an economic interest and/or technical knowledge in the subject area - and, in the final analysis, by the Board itself.

By proceeding in this manner, the Board feels that the impartiality of its own position will be maintained, while, at the same time, interested parties will have a final opportunity to present their views on the subject matter of this report. These views will become part of all the assembled evidence upon which the Board will base its recommendations.

W.L. Posthumus
Executive Director
Reference Branch

Ottawa
September 1, 1983

GENERAL TABLE OF CONTENTS

	<u>Page</u> ^(a)
PREFACE	v
FOREWORD	vii
INTRODUCTION	1
REVIEW OF INDIVIDUAL TARIFF ITEMS	32
TEXTILE PRODUCTS AND CHEMICALS	35
ELECTRICAL GOODS, METAL GOODS AND MISCELLANEOUS GOODS II	79
MACHINERY, MATERIALS, PARTS AND EQUIPMENT USED IN THE CONSTRUCTION OR EQUIPMENT OF AIRCRAFT AND SHIPS	147
MACHINERY, EQUIPMENT, PARTS AND ACCESSORIES USED IN THE MANUFACTURE OF MOTOR VEHICLES	183

(a) For an explanation of the pagination, see Preface.

INTRODUCTION⁽¹⁾

Scope of Inquiry

In all, 112 tariff items (including parts of ten items) have been referred to the Board for study under this reference. These items, which encompass a very broad range of goods, have been divided by the Minister into two distinct schedules, with different reporting dates - i.e. January 1, 1983 and January 1, 1985.

In order to facilitate the preparation of background material and the scheduling of public hearings, the Board decided at an early stage to review the tariff provisions falling under the inquiry on a group basis. Accordingly, seven broad groupings of tariff items were identified in relation to each of the two phases of the reference, the groupings reflecting, in a general kind of way, the end uses and/or physical characteristics of the goods in question. As part of this grouping process, eleven of the tariff items listed in Annex II to the Minister's letter were transferred by the Board for study and reporting purposes to Phase I of the inquiry. Thus, Phase II encompasses 52 of the items referred to the Board, rather than the 63 items originally listed in Annex II.

In addition to the aforementioned tariff items, there are very many others which fall within the area of reference. Of the 112 referred items encompassed by both phases of the inquiry, 24 (of which 22 were reviewed in Phase I) comprise "made/not made" pairings, while 88 are "not made" items with no specific "made" counterparts. Although, in the case of these unpaired provisions, the tariff classifications applicable to the counterpart "made" goods have not been referred directly to the Board, they clearly fall within the ambit of study, since their coverage would be affected by any change in the status of goods entering under the corresponding "not made" provisions or by the deletion of such provisions from the Customs Tariff. Again, 99 of the items referred to the Board (including 48 in Phase II of the inquiry) have specific end-use and/or end-user connotations. Since, for the most part, these provisions originated as offshoots of tariff items having unrestricted or non-specific industrial utilization requirements,⁽²⁾ any tariff recommendations which aimed to effect a broadening or narrowing of the range of goods admissible on the basis of end-use and/or end-user qualifications would need to be formulated in the context of these wider family relationships.

(1) Except for some necessary changes in emphasis, the following discussion replicates sections of the Board's report on Phase I of the inquiry contained in Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Phase I (1982), pp. 3-6, 9-33.

(2) The tariff histories of the referred items reviewed in Phase II of the inquiry are set out in Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Background Nos. 8 to 11 (1981-83).

Method of Inquiry

The Minister has asked the Board to investigate the possibilities of replacing the "made/not made" tariff provisions by some other form, or forms, of tariff treatment. Where simple elimination of these provisions does not appear to provide the desired answer, it is quite evident from the Minister's letter that the first and principal solution must be sought in the development of specific product (eo nomine) descriptions. Such descriptions, it is implied, are preferable to the existing "class or kind" provisions - or to the use of "availability" criteria - on account of the reduced opportunities for the exercise of administrative discretion and the greater element of certainty thereby afforded to exporters and importers with respect to duty payable.

In light of the terms of reference supplied by the Minister, lack of feasibility would seem to be the main - if not the only acceptable - reason for rejecting an eo nomine approach to the problem in hand. Clearly, tariff classifications based upon specific commodity descriptions are most easily developed when the goods to be encompassed are few, simple, and broadly homogeneous in function and physical characteristics. However, many of the tariff provisions included in this reference contain descriptions of goods in general terms which comprehend a wide and highly diversified range of products, some of which are produced in Canada and some of which are not.

To carry out its mandate, the Board has sought to establish lists of relevant classes of goods covered by the referred items, together with some indication of their made-in-Canada status. At first, the Board had hoped to be in a position to compile lists based on the published and unpublished rulings, relating to the referred items, issued by Revenue Canada, Customs and Excise. However, preliminary enquiries revealed that the compilation of product information based upon such rulings would be an arduous and time-consuming task, while the degree of commodity detail recorded in the official documentation appeared generally too broad for the purpose at hand. Similar considerations precluded a detailed study of import documents. Both these approaches were, therefore, set aside with the reservation that either or both could be used at a later date, on a limited scale, if they should prove necessary.

The most easily available, readily accessible, source of information was found to be Statistics Canada import data cross-classified by tariff item and 7-digit commodity class. For each referred tariff item, a list was obtained showing all the 7-digit classes said to cover any of the imports under the item. With the assistance and advice of officials of Revenue Canada, cases of obvious misclassification were removed, leaving listed only those classes relevant to the item as a whole. For each item, the list of classes was then again reviewed to eliminate those classes which applied only to goods whose tariff classification did not depend on their made-in-Canada

status. In many, but not all, items, parts are classified according to the status of the finished products and not in relation to their own status - i.e. a "made" part of a "not made" product may enter under a "not made" item. Where, however, the classification of parts depends directly on their own "made" or "not made" status, the relevant classes were retained. Certain relevant classes were eliminated where the value of imports was very small but, on the other hand, obviously relevant classes were added even if no imports were recorded either in the base year (1978) or in adjoining years, to which reference was also made. Certain broad n.e.s. ("not elsewhere specified") classes, in relation to which further detailed product specification would present considerable difficulties, were also eliminated.

The revised lists of commodity classes were then submitted to officials of the Department of Industry, Trade and Commerce for their review and advice respecting which classes are "made" or "not made" in Canada, and, where relevant, for the breakdown of classes between "made" and "not made" goods. In this regard, the Board also sought the assistance of representatives of manufacturers, purchasers and users of the relevant types of goods.

Based on these inquiries and consultations, the Board prepared provisional listings of "made", "not made" and "uncertain" classes of goods for distribution to interested parties, together with other relevant background information and statistics.⁽¹⁾ Representations or observations were invited regarding the accuracy and completeness of these listings, and parties were asked to make known their views regarding possible alternative tariff arrangements.

In order to provide some guidance in this latter connection, a general discussion paper on the issues⁽²⁾ was circulated by the Board prior to the first public airing of the reference, while, as the inquiry proceeded, the Board's staff developed and circulated draft papers setting out the various tariff options in relation to each of the referred items under review at the individual group hearings.

Made/Not Made Tariff Arrangement

Historical Perspective

The formulation of tariff provisions under which the dutiable status of commodities depends upon whether or not like goods are made in Canada has long been a feature of the Canadian Customs Tariff, although, before 1930, the

(1) Ibid.

(2) Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Discussion Paper No. 1. Issues and Approach (November, 1979).

device was used to a very limited degree. In 1880 only three tariff items incorporated such provisions,⁽¹⁾ and in 1897 only eight. The Customs Tariff of 1907 contained 14 made-in-Canada items (including one permitting drawback of duty on "not made" galvanized wire netting when used in traps for the fisheries),⁽²⁾ while the tariff schedules for 1928 listed 25 such items.

One of the earliest tariff items to apply a made-in-Canada criterion differentiated against "lustre wools and other like combing wools such as are grown in Canada", imposing a duty of 3 cents per pound thereon⁽³⁾. However, prior to the 1960's, virtually all other pertinent provisions provided otherwise dutiable goods with duty-free entry, or access at preferential rates, when the goods were "of a class or kind not made in Canada". In many instances such preferential tariff treatment was linked to importation by certain specified end users and/or for certain specified end uses. Hence, with respect to goods falling under such end-use provisions, preferential tariff treatment was accorded on a restricted basis without apparent prejudice to Canadian producers.

Several of the earliest of these provisions had a cultural or social bias, the favoured users being institutions or societies concerned with education, scientific learning or health care. Thus, the 1880 Customs Tariff provided, under authority of an Order in Council, for the duty-free entry of bent glass, such as was "not made in Canada", for the manufacture of show cases;⁽⁴⁾ while the 1897 Customs Tariff made provision (under tariff items 462, 463 and 467 respectively) for the duty-free admission of:

- (i) philosophical instruments and apparatus - that is to say, such as are not manufactured in Canada, when imported for use in universities, colleges, schools, scientific societies, and public hospitals;
- (ii) skins of birds, and skins of animals not natives of Canada, for taxidermic purposes, not further manufactured than prepared for preservation;
- (iii) books, not printed or reprinted in Canada, which are included and used as text books in the curriculum of any university, incorporated college or normal school in Canada.

Privileged tariff treatment of the goods encompassed by the above provisions has continued to the present time and, indeed, in the case of textbooks and certain of the "philosophical instruments", has been extended by deletion of the "not made in Canada" criterion.⁽⁵⁾

(1) These items related respectively to: machinery for worsted or cotton mills; bent glass for the manufacture of show cases; and combing wools.

(2) Tariff item 1020.

(3) Numbered as tariff item 390 in 1897 and as item 555 in 1907.

(4) See Customs Tariff, 1880, p. 27.

(5) See tariff items 69605-1, 69900-1 and 17305-1. The goods falling under item 69605-1 (and its companion item 69610-1) were reviewed in Tariff Board, Reference No. 134. Equipment for Hospitals and Other Institutions (1968) and Reference No. 155. Exemption from Duties for Certain Institutions and Goods (1978).

Other "not made" goods favoured with duty-free entry under late-nineteenth-century provisions, comprised a somewhat odd assortment of metal products, including: iron, steel or brass manufactures imported for use in the construction or equipment of ships or vessels (presently provided for under referred tariff item 44022-1); primers for shot shells; copper rollers for use in calico printing; and rolled iron tubes, lacquered or brass covered, for use in the manufacture of bedsteads.⁽¹⁾

In the drastically restructured Customs Tariff of 1907 (dating from November 30, 1906), approximately half of the 13 "not made in Canada" provisions were directed, in whole or in part, at machinery, with well drilling, mining and metallurgical operations featured among the privileged end uses.⁽²⁾ Textile machinery, partially exempted from duty for a limited period prior to October, 1880, was now brought more generally and permanently within the ambit of present concern,⁽³⁾ while provision was also made⁽⁴⁾ for the duty-free entry of certain newspaper printing presses "of a class or kind not made in Canada" and for the like admission of "all tools and machinery not manufactured in Canada up to the required standard, necessary ... for the manufacture of rifles for the Government of Canada". Among other "not made" provisions introduced at this time was the predecessor of item 28105-1, pertaining to firebrick - in respect of which the Board submitted an interim report to the Minister⁽⁵⁾ - and a provision encompassing seamless cotton or linen duck for the manufacture of hose pipe.⁽⁶⁾

No further changes of substance were made until 1924-30, when a number of new made-in-Canada items, directed especially at the mining and metallurgical sectors, were introduced. Other goods and sectors to be accorded preferential tariff treatment during this period by virtue of the application of a "not made in Canada" criterion included, by way of illustration, the following: items of equipment for use in the manufacture of motor vehicles; ozone generators or airifiers "for use in ventilating garages or automotive workshops"; internal combustion traction engines for farm use; various iron or steel shapes, sections and semi-finished products; machinery for use in the manufacture of nets for the fisheries, and needles for the repair of fish nets; machinery for use in the tanning or embossing of leather;

(1) Classified in the Customs Tariff for 1897 under tariff items 542, 535, 577 and 617 respectively.

(2) These end uses were specified in tariff items 469, 461 and 462 respectively.

(3) By tariff items 467 and 468. However, a duty of 10 p.c. was maintained in respect of "not made" textile machinery, except that used "for the manufacture of twine, cordage or linen, or for the preparation of flax fibre", which was accorded duty-free admission.

(4) Under tariff items 443 and 464(a).

(5) Tariff Board, Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. An Interim Report. Fire-brick and Related Products (1981).

(6) See tariff items 281 and 524a.

machinery for the manufacture of metal keys for opening cans of food products; various residual categories of machinery (now provided for under tariff item 42700-1 in connection with the Machinery Duty Remission Program); materials or articles of metal for use in the manufacture of washing machines or wringers; residual categories of electrical apparatus; woven fabrics for use in the making of hat bands; blankets or blanketing for printing presses; and hospital operating equipment and supplies.⁽¹⁾ The end uses specified in these items are illuminating in the sidelights they throw on the evolutionary aspect of the Canadian economy and on the emerging life styles and social values of the times.

As another manifestation of these changes, certain goods which had formerly been granted unrestricted entry now became subject to a "not made in Canada" proviso, presumably in order to provide a degree of protection to nascent Canadian industries. Thus, general duty-free access for chronometers and compasses for ships, initially conferred in 1906, was limited in 1929 to goods "of a class or kind not made in Canada" (qualifying applications, however, being extended, at this time, to usage in aircraft),⁽²⁾ while the preferential tariff treatment accorded since 1906 to "machinery of every kind and structural iron and steel ... for use in the construction or equipment of factories for the manufacture of sugar from beet root" was similarly circumscribed (in 1933).⁽³⁾

Up to the 1930's, goods "of a class or kind not made in Canada" falling under a particular tariff item were given similar preferential treatment regardless of origin. In this decade, however, a new factor entered into the situation. This was the period in which the Ottawa Conference, intended to stimulate trade within the British Empire, was held, and also the period in which Canada accorded M.F.N. treatment to the United States, with substantial reductions in duties on goods from that country. During this period many of the new "not made" items, while affording assistance to certain Canadian industrial users through reductions in duties, also attempted to encourage trade with British Preferential countries by maintaining, or even increasing, the margins of preference accorded to B.P. goods over products originating in M.F.N. countries. By 1939 there were 28 items which provided free entry to "not made" goods under both the B.P. and M.F.N. Tariffs, 36 items which conferred a margin of preference on B.P. goods, and four drawback items. There were also five items which did not themselves contain a made-in-Canada proviso, but under which the B.P. rate was reduced on "not made" goods because of commitments to Britain to maintain certain margins of preference on such goods.

(1) For the full nomenclature of these items, see Customs Tariff, 1930.

(2) Tariff item 369, renumbered in May, 1930 as item 440b.

(3) Tariff item 463, renumbered in May, 1930 as item 417.

Most of the pre-war items were retained with the coming into force of the GATT in the post-war era but the margins of preference tended to be reduced. Another development of the period was the creation of paired tariff items, one of which covered certain goods when "of a class or kind made in Canada", while the other applied to the same goods when "of a class or kind not made", thus avoiding detailed repetition in the listing of commodities. This device was used principally in revising the schedules applicable to goods used in discovering, exploiting and processing the products of the mining and oil industries, subsequent to Reference No. 130.⁽¹⁾

As a result of the Kennedy Round, effective January 1, 1968, three major "not made" provisions disappeared from the Customs Tariff. The "not made" arrangement applicable to machinery n.o.p. ("not otherwise provided for") was replaced by the "availability" criterion under the Machinery Duty Remission Program. The preferential tariff treatment for chemicals of a kind not produced in Canada, and a general free-entry provision (under the B.P. and M.F.N. Tariffs) for materials of a kind not produced in Canada used in the plastics industry, were also both abolished. These latter two changes arose out of the Tariff Board's report on Reference No. 120.⁽²⁾ Some of the flexibility of the "made/not made" system was retained for these goods through the introduction of section 12 of the Customs Tariff, on which are based the present Chemicals and Plastics Tariff Reduction Orders. Generally speaking, favourable treatment under this authority has tended to be limited to goods which are of a kind not produced in Canada, but made-in-Canada status is, in this respect, no longer a legal criterion.

The 112 tariff items referred to the Board for study in the present inquiry did not include every "made/not made in Canada" provision in the Customs Tariff at the time the reference was initiated. Excluded were two residual ("n.o.p.") items relating to diesel and semi-diesel engines, where the M.F.N. duty differences applying to the "made" and "not made" goods have now been phased out,⁽³⁾ and two "n.o.p." camera items, which have since been amalgamated.⁽⁴⁾ Part-item 69605-1, relating to utensils, instruments and other apparatus for teaching or research purposes, was converted from a "class or kind" approach to an "availability" formula in July, 1981.⁽⁵⁾ There remains one of the very earliest of the "not made" provisions, designed, like the forerunner of item 69605-1, to advance knowledge and understanding - viz: part-item 69900-1, pertaining to the skins of birds and animals "not natives

(1) Tariff Board, Reference No. 130. Machinery and Equipment Used in the Mining Industry and in the Oil and Gas Industries (1963).

(2) Tariff Board, Reference No. 120. Chemicals (1966-67).

(3) Tariff items 42815-1 and 42816-1.

(4) Tariff items 46205-1 and 46210-1.

(5) See Customs Memorandum D49-33, July 1, 1981, superseded by D10-11-10, July 1, 1982. Tariff item 69605-1 was reviewed by the Board in Reference No. 155. Exemption from Duties for Certain Institutions and Goods (1978).

of Canada" for taxidermic use. In addition, since the reference was received, nine new items applying to fruits and vegetables "of a class or kind grown/not grown in Canada" have been introduced into the Customs Tariff, following recommendations made by the Board in connection with Reference No. 152.⁽¹⁾ Further stemming from a recommendation contained in the Board's report on Reference No. 155,⁽²⁾ item 89905-1 was introduced in October 1980, providing duty-free entry for chemical and biological preparations "of a kind not produced in Canada", when for use in medical diagnosis by public hospitals or accredited medical laboratories.

Definitional and Administrative Considerations

The "not made in Canada" principle has never had general applicability in the sense that goods are allowed to enter free of duty simply because like goods are not made in Canada. Many goods are dutiable even though comparable products are not produced domestically, in many instances a hold-over from the time when the Customs Tariff was the main source of revenue. At the same time, goods may be entitled to free entry without a "not made" distinction, even though similar articles are domestically produced.

The "made/not made" criterion did, however, have universal application with respect to special or dumping duties as they existed prior to the coming into force of the Anti-dumping Act. Under section 6 of the Customs Tariff, repealed in 1968 with the exception of subsection 10, these duties were applicable, when appropriate, to all goods "of a class or kind made or produced in Canada", and "not made" goods were exempt. Section 6 of the present Customs Tariff (the former subsection 10) defines the term "made in Canada" as follows:

For the purpose of this Act goods shall not be deemed to be of a class or kind made or produced in Canada unless so made or produced in substantial quantities; and the Governor in Council may provide that such quantities, to be substantial, shall be sufficient to supply a certain percentage of the normal Canadian consumption and may fix such percentages.

Under this authority, in 1936, the Governor in Council ordered that:

Articles shall not be deemed to be of a class or kind made or produced in Canada unless a quantity sufficient to supply ten per centum of the normal Canadian consumption of such article is so made or produced.⁽³⁾

Although this regulation was originally introduced in connection with the determination of liability for anti-dumping duty, it was applied in the administration of the "made/not made" tariff provisions, and was retained for this purpose after the legislative changes of 1968, when the made-in-Canada

(1) Tariff Board, Reference No. 152. Fresh and Processed Fruits and Vegetables (1977-78). The tariff items in question are: 8747-1, 8748-1, 8906-1, 9007-1, 9222-1, 9223-1, 10503-1, 10523-1 and 10609-1.

(2) Op. cit., p. 49.

(3) Order in Council P.C. 1618, 2nd July, 1936 (see Customs Memorandum D11-1-1, July 1, 1982).

status of the goods ceased, for most intents and purposes, to be a deciding consideration in establishing whether or not special or dumping duties should be imposed.⁽¹⁾

The only place where a statutory definition of "not made in Canada" can be found is subsection 7 of the Customs Tariff, dealing with the imposition of additional duty in respect of subsidized goods of a class or kind made or produced in Canada. This states:

Goods may be deemed to be of a class or kind not made or produced in Canada where similar goods of Canadian production are not offered for sale to the ordinary agencies of wholesale or retail distribution or are not offered to all purchasers on equal terms under like conditions, having regard to the custom and usage of trade.

Thus, a good is deemed to be "of a class or kind made in Canada" when produced and offered in the ordinary course of trade in quantities equal to at least 10 per cent of Canadian consumption.

It might seem to follow from the law that an investigation should be carried out at the time of importation to determine whether or not Canadian producers are in a position to supply the necessary 10 per cent of the domestic market. However, such an inquiry is usually undertaken in detail only when the initial ruling of Customs and Excise, based on a more cursory investigation, is disputed, or when a change in an existing ruling is contemplated. In these cases, an analysis is carried out to establish the actual size of the market (production plus imports less exports) and the amount produced in Canada.

However, it is clear that, in some instances, goods which might theoretically qualify for a "made-in-Canada" classification under existing operational parameters have not been so registered. Doubtless, some such omissions can be explained by a lack of knowledge on the part of domestic manufacturers regarding the existence of the pertinent tariff provisions, or of the administrative regulations pertaining thereto, while other exceptions can be attributed to a simple failure - due to inertia or a discounting of the benefits to be gained thereby - to pursue a "made" ruling. In certain instances, however, it appears that domestic manufacturers have held back on account of a fear of black-listing by customers faced with the prospect of having to pay more for competing foreign products. In yet other cases, manufacturers - perhaps mistakenly, at times, in view of the implication of a loss of protection on value added⁽²⁾ - have been unwilling to relinquish duty-free access to imported parts in exchange for protection against competing finished products.

(1) However, this criterion continues to be applied in the case of pharmaceutical products, the administrative regulations providing that when such products are "of a kind not made or produced in Canada", they should be exempt from the application of the Anti-dumping Act (see Customs Memorandum D14-1-1, July 1, 1982).

(2) However, see infra, p. 12.

The classification of goods under "made" or "not made" provisions, or the refusal of such classification, is subject to appeal to the Tariff Board. Generally speaking, the Board has taken the position that, while it will rule whether a "made" or "not made" item might be applicable, the actual determination of made-in-Canada status, i.e. whether the percentage requirement has been met, is usually referred back to the Deputy Minister of National Revenue for Customs and Excise. The Board has not hesitated to rule when goods may be considered to be of the same, or of different, classes because of use or specification and, on occasion, to define the limits of a class by confirming or specifying appropriate criteria.

To complicate the issue further, the words "of a class or kind made/not made in Canada" are not precisely reproduced in all of the tariff items referred to the Board for study, and the presumption is that administrative practice by Customs and Excise will have been modified, to some extent, in order to accommodate the actual wording of the pertinent provisions. Thus, of the 112 referred items, 93 incorporate the aforementioned clause, while 19 have variants thereon,⁽¹⁾ with the word "produced" being used as an alternate to "made" in a number of instances and with "types or sizes" and "colours and/or textures" being variously substituted for "class or kind". Whereas, there would appear to be no problem in equating the word "produced" with "made", the concept of "types or sizes" or "colours and/or textures" suggests an altogether narrower construction than "class or kind". Likewise, the phrase "when"⁽²⁾ not made in Canada", which appears in two of the referred items as a means of accommodating a changing domestic production situation, supposes the need for a higher degree of product refinement and administrative flexibility than one might look for in the interpretation of the more traditional "not made" phraseology.

There has also been some variation, over time, in the interpretation of the phrase "class or kind", particularly as opposed to "kind" when used alone, as in a number of items relating to chemicals and products of the chemical and allied industries. The phrase "class or kind" has been construed both disjunctively and conjunctively at different times. In more recent years the tendency has been to consider "class" a broader term than "kind". The latter, in the case of chemical products, has been held to require identical chemical composition. Thus, it is theoretically possible for a product to be of a kind "not made" but of a class "made". In other words, to be "of a class or kind not made", the product must be of neither "a class" nor "kind" made in Canada.

(1) In the 112 items referred to the Board, the forms of wording and their frequency are as follows: "of a class or kind not made in Canada" (81); "of a class or kind made in Canada" (12); "of a kind not produced in Canada" (6); "of types or sizes not made in Canada" (5); "of a type not made in Canada" (3); "when not made in Canada" (2); "of a class or kind not produced in Canada" (1); "of a size not made in Canada" (1); "of colours and/or textures not produced in Canada" (1).

(2) Our underlining.

However, it would be well to recognize both from the viewpoint of the Department and the Board that there have been real difficulties in defining with precision what constitutes "class or kind". Justice Thorson, in a 1957 Exchequer Court case, summed up the problem in the following manner: "The words 'of a class or kind not made in Canada' are general terms appearing frequently in the Customs Tariff and it is not possible to lay down any single criterion of general application."⁽¹⁾

Treatment of Parts

In Phase II of the reference there are 25 tariff items under which no special provision is made for parts of the named goods.⁽²⁾ Although nine of these 25 items pertain to products made wholly or in chief part of metal, there is a strong presumption that parts, or components, are likely to be of especial importance in respect of goods, such as engines, machinery and many types of apparatus, which are manufactured by an assembly process.

The provision for parts has not always been a major element in the "made/not made" tariff arrangement. Indeed, many of the early "not made" items contained no provision at all for parts, or catered only for "complete" parts. With the passage of time and, presumably in response to pressure from interested sections of the business community, new provisions for parts were introduced, and existing provisions were widened. Thus, not only do 79 of the 112 referred items presently provide specifically for parts, but in only ten instances (two being in Phase II) do these parts now have to be "complete".

However, as already indicated, the classification - and hence, the dutiable treatment - of parts is not the same under all of the referred provisions. In 29 instances (15 being in Phase II) classification hinges upon whether or not the parts themselves are "of a class or kind made/not made in Canada". In another 45 instances (9 being in Phase II) the classification of the parts as "made" or "not made" depends, not upon the made-in-Canada status of the parts themselves, but upon the dutiable status of the parent goods. In those instances where the classification of the parts is independent of the classification of the main goods, the made-in-Canada status of the parts is obviously a question for the Board to investigate directly. On the other hand, the Board has interpreted its terms of reference as indicating that it is not required to - and, indeed, in the normal course of events, should not - adjudicate upon the made-in-Canada status of parts in respect of those tariff provisions under which the classification of parts follows that of the principal goods. The Board has felt that it has not been called upon to recommend changes in the relationship between the parent goods and parts, and only

⁽¹⁾ Tariff Board Reports, Vol. 1, 1937-1956, p. 188.

⁽²⁾ There are eight such tariff items in Phase I. In addition, there are a further six items in the two phases under which the principal goods are themselves described as "parts", "materials", or "articles ... for use in the manufacture of".

in exceptional circumstances has it been prepared to consider doing so. Hence, at various places in the background material circulated by the Board, statements such as the following occur: "the Board is not concerned with the made-in-Canada status of the parts", and "the made-in-Canada status of the parts is not a pertinent issue".

However, the tariff relationship between the parent goods and parts notwithstanding, there is no doubt that the dutiable treatment of imported parts (as distinct from principal goods) is viewed by a substantial proportion of interested parties as comprising the issue of major concern in the present context. Among those petitioning the Board in this regard have been Canadian manufacturers of components unhappy about the fact or prospect of duty-free entry of competing goods. Obversely, preferential tariff treatment of parts has been sought by some domestic producers who import most of their material inputs and export much of their output. For such producers, protection of the home market may be a marginal benefit, willingly conceded in exchange for unrestricted access to low-cost materials and components. While the latter objective may be achieved indirectly through the use of provisions for duty drawback,⁽¹⁾ those exporters making representations to the Board have appeared, not surprisingly, to favour the more direct and less time-consuming arrangement of duty-free entry, requiring a minimum of paperwork and no cash outlay. Among other parties making submissions, a desire for the preferential duty treatment of parts has also been expressed by industrial users, repairers and remanufacturers of some of the capital goods gaining entry under the referred tariff provisions. It is, of course, in the nature of most industrial capital equipment to wear out gradually, and for the operation of such equipment to be maintained through the piecemeal repair and periodic replacement of individual components of machinery and pieces of apparatus. It has appeared to the Board that many of the referred items falling into the machinery schedule of the Customs Tariff have been utilized to a large extent for precisely these purposes.

Other Tariff Arrangements

Eo Nomine Approach

The Minister has asked the Board to investigate the possibilities of replacing the "made/not made" tariff provisions by some other form, or forms, of tariff treatment. Where simple elimination of these provisions does not appear to provide the desired answer, it is quite evident from the Minister's letter that the first and principal solution must be sought in the development

(1) Under section 275 of the Customs Act, the Governor in Council may allow for drawback of duty "in respect of materials used in, wrought into or attached to goods exported, or in respect of materials (not to include fuel or plant equipment) consumed in the manufacture or production of any such goods".

of specific product (eo nomine) descriptions. Such descriptions, it is implied, are preferable to the existing "class or kind" provisions - or to the use of "availability" criteria - on account of the reduced opportunities for the exercise of administrative discretion and the greater element of certainty thereby afforded to exporters and importers with respect to duty payable. It is clear that the prospect of a less flexible system of classification is not to the liking of all interested parties; but in view of (i) the prime purpose of this reference, (ii) the traditional acceptance of statutory authority as the essential basis for the imposition of taxes, including import duties, and (iii) the impending introduction of the Customs Cooperation Council Nomenclature (CCCN), with its strict arrangement by product divisions, some very compelling arguments might be thought necessary for such dissenting viewpoints to carry persuasive force.

Whether it will be possible for acceptable eo nomine commodity listings to be developed and, if so, how to structure them for tariff purposes, must depend in the first instance upon the success achieved in identifying and circumscribing the goods in question and in determining their made-in-Canada status. There should be little difficulty in those instances where individual product descriptions are already set out in the nomenclature of a "not made" tariff provision and all the goods classifiable thereunder are reported as being "not made". Assuming a continuation of present preferential duty treatment, the existing nomenclature could simply be retained without the qualifying clause "of a class or kind not made in Canada".

The situation becomes somewhat more complex when some or all of the goods listed in an eo nomine "not made" tariff item are reported as being "made" on the basis of the criteria adopted by the Board. From an industrial development standpoint the obvious course would be to exclude such "made" goods from the nomenclature of any new preferential (duty-free) item, and to make them dutiable, either in their own item or by allowing them to fall into other (dutiable) parts of the Customs Tariff. However, since such situations could, in certain instances, result in demands for compensation by Canada's trading partners, it is necessary to pause in order to consider what would be lost by including the "made" goods (and also any of "uncertain" made-in-Canada status) in a preferential tariff provision encompassing the "not made" related products. Obvious variables to review in this regard would include the value of imports, the ratio of "made" to "not made" goods, and the comparative levels of duty.

The above comments are predicated upon the assumption that the goods in question are known and capable of identification and enumeration. However, as already noted, many of the products encompassed by this reference fall under very general commodity descriptions (such as "machinery and apparatus for use in ..." and "manufactures of metal for use in ...") which are of little use in providing a basis for an eo nomine approach. In certain

instances, the "made/not made" provisions apply specifically to parts (q.v. item 44569-1) or materials (q.v. item 44205-1). Moreover, four of the referred items (all in Phase II) are drawback items in respect of which commodity detail and related values are not available. It seems clear that in cases such as these, it will not be possible to arrive at definitive eo nomine listings of all pertinent goods. It is also unlikely that the made-in-Canada status of every commodity included in a lengthy enumeration will be known with certainty. Of course, in some instances, where reliable and reasonably complete information exists, separate eo nomine treatment might be provided in relation to one or more of the classes of goods encompassed by wide-ranging commodity descriptions.

With respect to the treatment of the bulk - if not, all - of the goods falling under these very broad provisions, various approaches might be adopted. The different possibilities have already been outlined in Discussion Paper No. 1 and set out in more detail in papers previously circulated by the staff. For example, if, in the light of available information, it emerges that most of the relevant goods are "made", these (and possibly some, or all, of the goods categorized as being of "uncertain" status) could be listed in a dutiable item, with all other goods being placed under a duty-free provision. One of the problems with this kind of arrangement (apart from the question of possible compensation) is the likelihood that the list of "made" goods would in some instances be very long. As a possible alternative arrangement, the "not made" goods could be listed in an eo nomine duty-free tariff item, with a basket dutiable provision being provided for the remaining goods, such goods to be unnamed and possibly made subject to duty remission when not available from domestic sources. In this way protection would be provided to any "made" goods and could readily be extended to any unlisted products not yet manufactured in Canada.

Of course, as already noted in Discussion Paper No. 1, in the case of paired ("not made" and corresponding "made") items, which are to be found mainly in the mining machinery and oilfield equipment schedules, reviewed in Phase I of this reference, the whole exercise of identifying products and determining their made-in-Canada status can be side-stepped by simply combining the paired provisions into a single item without any change in the existing nomenclature and applying a common rate of duty. The main problem with this approach, as was evident at the hearings, concerns the determination of duty, since any average which is struck will reduce existing protection on "made" goods and place an imposition on presently duty-free "not made" goods. Moreover, in the case of machinery items, if it is assumed that "not made" goods are "not available", the anomalous situation is reached whereby a duty will be imposed upon general-purpose "not made" machinery when intended for one of the designated (hitherto, preferred) end uses, while the same machinery when imported for general use will qualify for duty remission under the provisions of the "availability" program.

The "Availability" Formula

Of the various alternatives to an eo nomine listing of goods, that broached most frequently by interested parties has been the "availability" concept as currently provided for in tariff item 42700-1 et al,⁽¹⁾ administered by the Department of Industry, Trade and Commerce under the provisions of the Machinery Duty Remission Program. According to the guidelines issued by the aforementioned department, goods (machinery) are "considered to be available from production in Canada if at least one manufacturer has proven capability⁽²⁾ to manufacture machinery which, insofar as its range of physical qualities, operational characteristics and efficiency are concerned, is reasonably equivalent to the machinery for which remission is sought". Like the "made/not made" tariff prescription, the "availability" formula is attractive to some in that it permits changing situations to be accommodated through the exercise of administrative discretion; indeed, since "availability" criteria reflect not only production possibilities but also market tendencies, it is the more pliable arrangement. However, since the Machinery Duty Remission Program evolved in 1968 from earlier "made/not made" tariff provisions governing the importation of residual classes of machinery, a similar basic philosophy underlies both of these approaches; it follows, therefore, that any conceptual objections applied to the one may, in most instances, be levelled at the other.

(1) The principal "availability" provision is worded as follows:

Machines, n.o.p., and accessories, attachments, control equipment and tools for use therewith; parts of the foregoing:

42700-1 Other than the following

1/1/87 2.5 p.c. 9.2 p.c. 35 p.c. 2.5 p.c. 9.2 p.c.

Except that in the case of the importation into Canada of any goods enumerated in tariff items 42700-1 ... the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in these items applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of a remission granted under this provision.

Certain named classes of machinery and associated goods are similarly provided for in items 42700-2, 42700-3, 42700-4, 42700-5, 42700-9, 42701-1, 42701-2 and 41100-1. Apparatus, utensils and instruments for use directly in teaching or research are covered by tariff item 69605-1, administered on the basis of regulations made and implemented by the Minister of National Revenue.

(2) Proven capability is deemed existing in Canada where: "(a) the full range of technical and physical capabilities necessary for production of the machinery exists within the operational framework of at least one manufacturer; and (b) such facilities have in fact produced machinery demonstrating competence reasonably equivalent to that required to produce the machinery for which remission is sought".

Subsequently, there has been a high degree of interchangeability between tariff item 42700-1 and "made/not made" machinery provisions applying to the mining, oilfield and related sectors, in particular. In part, this situation would seem to stem from the fact that the end use of machinery capable of general-purpose applications, including those covered by "made/not made" provisions, is often not known at the time of importation. The closeness of the aforementioned relationship is underlined by the fact that, should any machinery-oriented "made/not made" items be deleted, the pertinent machines, together with their accessories, attachments, control equipment, tools and parts (but not other associated apparatus) would revert, in most instances, to tariff item 42700-1, and thus become subject to the Machinery Duty Remission Program. Accordingly, given the Minister's injunction that the "availability" concept should be resorted to only in "specialized circumstances" (if at all), simple elimination of the "made/not made" machinery items would evidently not provide a solution generally acceptable to the Minister.

An "availability" approach, however, is not completely ruled out. The Board can only infer the "specialized circumstances" which the Minister is prepared to concede, but these seem likely to consist primarily of those kinds of situations, already mentioned, in which a comprehensive eo nomine listing would not be feasible on account of the scale of the undertaking, the indeterminate nature of the subject area, and/or the large element of uncertainty in the information base. One may also conceive of other somewhat exceptional circumstances in which a need for flexibility may promote acceptance of the "availability" concept. Commodity areas in which there is rapid technological or economic change could conceivably provide such examples, as could areas in which the materials or products at issue have strategic importance. Goods which are model-specific inputs, or otherwise difficult to categorize as being either "made" or "not made", might also be possible candidates for "availability" treatment. Except for situations of the latter type, circumstances such as those outlined above might alternatively point to retention of a "made/not made" prescription rather than the application of "availability" criteria.

However, assuming that a duty differential is to be maintained in respect of classes or kinds of goods made in Canada and those not so made, it needs to be recognized that the use of an "availability" formula, or retention of "made/not made" provisions, would not avoid, but would continue, the need to make judgments in regard to the made-in-Canada status of individual commodities. There is also the additional consideration that the administration of "availability" provisions (by the Machinery Branch of the Department of Industry, Trade and Commerce) has until very recently been limited to machines only, albeit of a wide range, together with their accessories, attachments,

control equipment, tools and parts. As already noted,⁽¹⁾ since July 1981, an "availability" formula has also been applied (by the Department of National Revenue, Customs and Excise) to certain categories of apparatus, utensils and instruments for use directly in teaching and research. If these provisions are to be further extended to encompass other goods such as electrical instruments, wood manufactures, steel products, apparatus of various kinds, and a diversity of materials, additional budgetary and manpower resources will presumably be required.

Considerations of "Continuing Relevance"

In his letter of reference to the Board, the Minister states that "there is a need to review the continuing relevance of the 'made/not made' items in the Customs Tariff in the light of the changes in tariff protection which have resulted from successive trade negotiations, including the recent 'Tokyo Round' of multilateral trade negotiations". Patently, in this context, the words "continuing relevance" have a key significance, and the way in which the Board interprets this term might reasonably be expected to have a critical bearing upon the shape and outcome of its deliberations. This issue is not, perhaps, as simple and straightforward as might appear at first sight. However, useful comment would seem to start with a consideration of the raison d'être underlying the establishment of the referred tariff provisions.

Accordingly, it may be recalled that the "made/not made" tariff arrangements have long historical antecedents dating back to the latter part of the nineteenth century. The principal general aim - then and since - has been to provide otherwise dutiable goods with duty-free entry, or access at preferred rates, when "of a class or kind not made in Canada" and (in the majority of instances) when imported for certain specified uses and/or for certain specified users. Thus, with respect to goods falling under such end-use provisions, preferential tariff treatment is accorded on a restricted basis without apparent adverse effects on Canadian industry. It is to be noted that, while some of the goods at issue are highly specific in regard to industrial end uses, many - perhaps the majority - are capable of being utilized in a broad spectrum of economic sectors. Hence, there is a problem of ensuring that the preferences conferred by the relevant tariff provisions are, and will continue to be, enjoyed by those for whom they are intended.

There is no doubt that in the past, more especially in the period spanning the 1930's and early post-war years, the tariff concessions embodied in the referred items conferred considerable benefits upon importer-users. In the case of "not made" goods entering under the B.P. Tariff (whose margins of preference were maintained and, in some instances, deliberately promoted by

⁽¹⁾ Supra, p. 7.

the "made/not made" provisions), an absolute rate advantage of as much as 27.5 p.c. could have been obtained, on occasion, in comparison with the duty applicable to "made" goods entering under the corresponding Intermediate or M.F.N. Tariff. However, in more recent decades B.P. margins of preference have been significantly eroded and, in the case of goods emanating from the United Kingdom and Ireland, will completely disappear by 1987. More largely, the progressive whittling away of import duties in the post-war years, as the result of successive rounds of multilateral trade negotiations, has substantially reduced levels of protection under the M.F.N. Tariff and by 1987, when the final concessionary rates of the Tokyo Round become effective, comparatively few of the goods presently entering under the "not made" provisions will be liable under alternative tariff items to M.F.N. rates of duty in excess of 10.2 per cent.

Viewed in terms of its impact on a user's unit production costs and profit performance, it may be surmised that a saving of 10.2 per cent with respect to the costs of selective - possibly minor - material inputs, particularly when in the form of investment goods depreciated over perhaps 20 or 30 years, will, in most instances, be very slight. The public hearings suggested that few users had given much thought to this aspect of the question; indeed, some users were apparently unaware whether the duty savings attaching to a "not made" designation were, in fact, being passed on to them by their suppliers. However, some users were apparently less concerned about the impact of duty charges on production costs than with the effect of such outgoings in aggravating problems of cash flow.

The conclusion that the benefits conferred by the "not made" tariff arrangements are, in some cases, no longer very real or very obvious would seem to be borne out by an apparent lack of interest in the future disposition of certain of the provisions under review. As indicated in Table 1, which sets out the salient features of these provisions (see pages 23-31), no submissions were received in relation to any of the goods falling under 11 of the 52 tariff items encompassed by Phase I of the reference, while representations made with respect to many of the remaining items impinged upon only very small segments of the pertinent commodity ranges. In the case of 24 Phase II non-drawback items (including eight of those in regard to which no submissions were received) the average annual value of imports in 1979-81 amounted to less than \$1 million. However, viewed from a more global standpoint, the privileges enjoyed by users under the "not made" tariff provisions still appear to possess considerable financial worth. In the years 1979-81, goods with an average value of \$2.95 billion per annum entered under the "not made in Canada" tariff provisions coming within the scope of the present reference (of this amount Phase II items accounted for approximately \$1.63 billion). If these goods, which in the main were non-dutiable, had paid an average rate of duty of, say, 10 p.c., the yield in customs revenue would have amounted to \$295 million per annum, i.e. ten times the sum that was actually collected.

It might be argued, however, that to view the issue of "continuing relevance" solely from the standpoint of whether the advantages conferred by the "not made" tariff provisions are still worthwhile, is to place altogether too narrow a construction upon the Board's mandate in this regard, bearing in mind that the preferential treatment thereby extended to certain sections of the community has, in the last resort, to be paid for by the tax-paying population at large. Of course, the issue here is not just one relating to the incidence of taxation. There is also the broader question of economic and social priorities, and whether the preferential fiscal treatment embodied in the referred tariff provisions continues to make sense in the light of present-day national policy objectives. If the duty concessions which have been granted no longer properly reflect the goals of economic and social policy, or if such concessions have clearly ceased to be necessary to the viability or well-being of the beneficiaries, it would seem relevant to query whether the privileges in question should be perpetuated and, at a further remove, to ponder whether the national interest might not be better served by the preferment of a different body of interests. Even if, on national policy grounds, some form of special concessionary treatment may seem warranted, there is the additional question of whether - given the wide range of assistance programs and schemes sponsored or administered by government, and the limited possibilities for tariff manipulation in today's regulated international trading environment - the Customs Tariff remains the most appropriate vehicle for providing assistance, on a differential basis, to certain select groups or interests.

In the Board's view these are legitimate concerns, worthy of in-depth study, but given the time constraints which have been imposed and the absence of any positive direction from the Minister to address these issues directly, the Board has not taken it upon itself to do so. Hence, the Board's position in this regard has been somewhat different from that put forward in Phase I of the inquiry by the Director of Investigation and Research, Combines Investigation Act, Department of Consumer and Corporate Affairs Canada, who observed that "the Minister's letter would not seem to preclude the Board from recommending changes which entail further tariff reductions if existing tariffs cannot be justified on social grounds". In this connection, it should perhaps be noted that the overwhelming bulk of the referred tariff items pertain to industrial inputs, rather than final consumer products (Phase I items 47825-1 and 47826-1, applying to goods for the disabled, being prime exceptions in this regard), so that the opportunities for the exercise of social criteria would appear to be severely limited.

Duty Considerations

On the subject of the rates of duty to be applied to the goods falling within the scope of the reference, the Minister observes that the Board should "use as a tariff level reference point the final concession rates

agreed to in the Multilateral Trade Negotiations". It is further indicated that "to the extent possible, the Board should not make recommendations with respect to these [referred] items which, if implemented, would result in an overall increase in the levels of protection provided for in the new GATT Schedule for the relevant product categories".

What should constitute "relevant product categories" is left to the Board to determine. The possibilities are evidently very wide. At one extreme it might be argued, for example, that any type of machine falls into a "machinery product category", thus encompassing a very substantial proportion of the goods presently under review, while, at the other extreme, it is possible to conceptualize a product category in terms as narrow as "pumps" or "compressors". By focussing upon the Minister's use of the word "relevant" in this context it is possible to widen the options still further. The Board is authorized to review any tariff items which it considers "relevant" to this reference; and it will be readily apparent that, insofar as the Board's recommendations might shift goods to or from other parts of the Customs Tariff, thereby resulting in changes in average levels of protection, the counterpart provisions, as well as those referred to the Board, should be brought within the ambit of study. This would manifestly be the case when some or all of the goods encompassed by an existing duty-free "not made" item are dropped from any new preferential tariff arrangement and, as a consequence, become dutiable under alternative provisions applying to like products. Clearly, the net effect of such a realignment would be to increase the overall level of protection in relation to the total of pertinent goods unless, at the same time, the rates of duty applicable to the expanded item or items were correspondingly reduced.

To estimate the tariff adjustments involved in an exercise of this kind would not appear to be conceptually difficult. However, at the practical case-study level, a summary review of the facts suggests that some formidable problems might be encountered in connection with the mechanics of such an operation. First, the pertinent rates of duty might include, not just one, but a multitude of alternative tariff provisions, some of which could prove difficult to identify, especially in relation to "parts" (which account for well over one half of the value of imports under some of the referred tariff items) and "materials". Secondly, an appreciation of the duty implications of reclassification changes along the lines indicated above would require the assembly and analysis of data on import values on a commodity class or individual product basis, not only in relation to the relevant referred provisions but also in respect of any other items which might be involved in the reclassification process, in order that appropriate statistical weights might be calculated and applied.

The Minister's letter states that the Board's recommendations, if implemented, should not result "in an overall increase⁽¹⁾ in the levels of protection provided for in the new GATT Schedule". From this it might be inferred that the rates of duty bound under GATT have been set at levels lower than the M.F.N. rates applied in the pre-MTN Customs Tariff; and in the majority of instances this is so. However, reference to Table 1 indicates that, in the case of ten of the 52 referred Phase II items, the actual M.F.N. rate of duty effective in 1979 was (and remains) lower than the GATT final (1987) concession rate. (There are also 18 such items in Phase I of the inquiry). All of these items, it might be noted, encompass goods of classes or kinds not made in Canada, and all, except tariff item 56710-1 (applying to woven fabrics), presently provide duty-free entry. If the GATT final concession rates of duty had been applied to these items in 1979-81, an additional \$70.4 million per annum could have been raised in customs revenue. Of this amount, \$11.7 million would have been in connection with the import of goods falling under Phase II of the inquiry, tariff item 43877-1 (pertaining to materials used in the manufacture of motor vehicle parts and accessories) accounting for over 90 per cent of this amount. The figure of \$11.7 million may be put into perspective by noting that it would have represented almost two-thirds of the customs revenue (of \$18.8 million) which would have accrued by applying 1987 duty rates to 1979-81 imports under all Phase II items, and by contrasting it with the \$11.9 million (or thereabouts) actually raised.

Thus, by pointing towards a change in the dutiable status of some of the major "not made" items under review, "a tariff level reference point" which was determined by "the final concession rates agreed to in the Multilateral Trade Negotiations" would, in effect, provide a substantial bonus to the revenue authorities, while protection would also be extended to Canadian producers of any pertinent goods not presently ruled to be "of a class or kind made in Canada". The privileged position of the users of these goods, however, would be undermined. On the other hand, a Board recommendation for continued duty-free entry in relation to all or any of the goods presently encompassed by these "not made" provisions, if negotiated with Canada's trading partners and subsequently written into the Statute Book, would presumably have the effect of rescinding the recent GATT binding, thereby making it more difficult for the domestic production of such goods to become established. Future import replacement would have to take place without the benefit of tariff protection or would require compensation to Canada's trading partners.

One possible solution, which would seem particularly applicable in the case of certain of the paired items, would be to have a single dutiable item listing all goods, both "made" and "not made", followed by a provision temporarily reducing the duty of the statutory item to Free in relation to any

(1) Our underlining.

of the specified goods which the Board's studies have indicated are presently not made in Canada. Such a temporary reduction could be effected by Order in Council pursuant to section 273 of the Customs Act, provided that this section (upon recommendation by the Board) is amended to authorize temporary reductions in duty for goods other than "articles ... used as materials in Canadian manufactures", as currently specified in section 273(1). Alternatively, the Board could recommend that such temporary reductions be carried out by Governor in Council under an amended section 12 of the Customs Tariff, which currently provides for reductions of duties on chemicals and plastics items, or under a new section to that Act similar to section 12. However, it would probably be simpler, as well as more desirable, to use the authority presently available under section 17 of the Financial Administration Act, which permits the Governor in Council on the recommendation of the Treasury Board "whenever he considers it in the public interest" to "remit any tax, fee or penalty".

The tariff arrangement envisaged above would enable the GATT concessionary rates applying to the pertinent "not made" goods to be made statutory and, hence, permanent. At the same time, in the light of representations made to the Board, the notion of duty-free entry for selected goods on a temporary basis might be expected to appeal to some parties because it would permit a degree of flexibility to be exercised. Changes to the list of Free goods would be made by Governor in Council, rather than by an amendment passed by Parliament, without necessitating compensation in those instances involving the reinstatement of protection. Such changes might be made on an on-going basis or at the end of whatever temporary duty-free period is thought appropriate. Final revisions coincident with the termination of this arrangement would see the "not made" goods encompassed in a permanent duty-free eo nomine provision. It should be noted that, in the event of this arrangement not proving acceptable to the Government, it would already incorporate all of the commodity information necessary for an eo nomine alternative which would be statutory in its entirety.

TABLE 1
REFERRED TARIFF ITEMS: ANALYTICAL FRAMEWORK

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b) \$'000	1987 MFN Rate(b) \$'000		
21950-1	Chemicals, except antibiotics	Manufacture of animal or poultry feeds	Not Made	Free	Free	42.4	-	-	2	Yes
30620-1	Ornamental or decorative marble	In interior work in churches	Not Made	Free	(Free)	0.0(d)	-	-	7	No
31500-1 Ex.	Carbons	Manufacture of dry batteries and dry cells	Not Made	Free	(Free)	(4.2)	-	-	3	Yes
32645-1	Moulded illuminating shades, reflectors and refractors of glass	With light fixtures or with portable lamps	Not Made	15 p.c.	Free	3.2	473	-	3	No
32669-1	Reflectors and refractors of glass, imported to be silvered, aluminized acid-etched or combined with a spun aluminium cover	With lighting fixtures	Not Made	Free	Free	0.3	-	-	3	No
35235-1	Centrifugally-cast bronze shells or tubes	Manufacture of rolls for paper-making machinery	Not Made	Free	Free	0.4	-	-	4	No
39225-1	Rotor shaft forgings, rough machined, not less than 50,000 pounds in weight	Manufacture of electric motors and electric generators	Not Made	Free	9.2 p.c.	0.1	-	11	4	No

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
							\$'000	\$'000		
40700-1	Silent chain and finished roller chain, of iron or steel, and complete parts thereof	N.A.	Not Made	15 p.c.	9.2 p.c.	19.3	2,888	1,771	4	Yes
41106-1	Specified goods	Repair of self-propelled trucks which have been modified for carrying a load in the operation of logging	Not Made	Free	8 p.c.	0.4	-	35	6	Yes
42726-1	Ball and roller bearings n.o.p. & parts	N.A.	Not Made	Free	(Free)	99.4	-	-	4	Yes
43806-1	(Specified goods & parts thereof ( ( ( ( ( (	Manufacture or repair of diesel-powered dump trucks, fire-fighting vehicles, motor vehicles, n.o.p., and electric trackless buses	Not Made	Free	Free	84.9	-	-	6	Yes
43807-1	(	)	Made	12.5 p.c.	8 p.c.	23.1	2,887	1,847	6	Yes
43811-1	Specified articles & parts thereof	As original equipment by a manufacturer of passenger automobiles n.o.p. (output = less than 10,000 vehicles)	Not Made	Free	Free	0.2	-	-	6	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub- mission
				Pre-MTN 1979	Conces- sion Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
							\$'000	\$'000		
43812-1	Specified articles & parts thereof	As original equipment by a manufacturer of pas- senger automobiles n.o.p. (output = 10,000 to 20,000 vehicles)	Not Made	Free	Free	0.0(d)	-	-	6	Yes
43813-1	Specified articles & parts thereof	As original equipment by a manufacturer of pas- senger automobiles, n.o.p. (output = greater than 20,000 vehicles)	Not Made	Free	Free	0.0(d)	-	-	6	Yes
43814-1	Specified articles & parts thereof	As original equipment by a manufacturer of motor trucks, motor buses, elec- tric trackless trolley buses, etc. (output = less than 10,000 vehicles)	Not Made	Free	Free	0.3	-	-	6	Yes
43815-1	Specified articles & parts thereof	As original equipment by a manufacturer of motor trucks, motor buses, elec- tric trackless trolley buses, etc. (output = greater than 10,000 vehicles)	Not Made	Free	Free	0.1	-	-	6	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty (c)		Hearing Group	Sub- mission
				Pre-MTN 1979	Conces- sion Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
							\$'000	\$'000		
43816-1	Specified articles & parts thereof	In the repair of diesel- powered dump trucks, fire- fighting vehicles, motor vehicles, n.o.p. etc., or the manufacture of repair parts therefor	Not Made	Free	Free	57.0	-	-	6	Yes
43819-1	Specified articles & parts thereof	Manufacture of motor trucks, motor buses, electric trackless trolley buses, fire-fighting vehicles, ambulances, hearses, and the chassis for same	Not Made	12.5 p.c.	8 p.c.	38.2	4,774	3,056	6	Yes
43820-1	Specified articles & parts thereof	As original equipment for motor trucks, motor buses, etc.	Not Made	Free	Free	9.3	-	-	6	Yes
43821-1	Specified articles & parts thereof	In the repair of motor trucks, motor buses, etc., or for use in the manufacture of repair parts therefor	Not Made	Free	Free	180.7	-	-	6	Yes
43824-1	Internal combustion engines & parts thereof	Manufacture of motor trucks, motor buses etc.	Not Made	12.5 p.c.	8 p.c.	0.8	97	62	6	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b)	1987 MFN Rate(b)		
43825-1	Internal combustion engines & parts thereof	As original equipment for motor trucks, motor buses, etc.	Not Made	7.5 p.c.	5.5 p.c.	0.2	15	11	6	Yes
43826-1	Internal combustion engines & parts thereof	The repair of motor trucks, motor buses, etc. or the manufacture of repair parts therefor	Not Made	7.5 p.c.	5.5 p.c.	6.4	480	352	6	Yes
43861-1	Bumper face bars of base metal	Manufacture of motor vehicle bumpers	Not Made	Free	9.2 p.c.	0.3	-	24	6	Yes
43877-1	Materials	In manufacture of parts, and accessories and parts thereof, except tires and tubes, for passenger automobiles, buses, etc.	Not Made	Free	10.2 p.c.	103.8	-	10,587	6	Yes
44022-1	Manufactures of metal	In the construction or equipment of ships or vessels	Not Made	Free	Free	167.5	-	-	5	Yes
44059-1	Specified goods & parts thereof	In aircraft, aircraft engines, or airborne aircraft equipment	Not Made	Free	Free	517.4	-	-	5	Yes
44205-1	Materials & parts wholly or in chief part of metal	Manufacture of specified machines and equipment for use in specified industries (e.g. logging, agriculture, commercial fishing)	Not Made	Free	Free	192.6	-	-	7	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty (c)			Hearing Group	Sub- mission
				Pre-MTN 1979	Conces- sion Rate 1987(a)		MFN Rate(b)	MFN Rate(b)			
									\$'000		
44305-1	Ovens	Commercial bakeries	Not Made	7.5 p.c.	Free	2.4	183	-	4	No	
44560-1	Lamp bases of metal	In the manufacture of incandescent electric lamps for motor vehicles	Not Made	Free	10.2 p.c.	1.1	-	113	6	Yes	
44569-1	Steatite ceramic parts	Manufacture of resistors	Not Made	Free	9.2 p.c.	0.3	-	26	3	No	
44643-1	Articles of which iron, steel or nickel are the com- ponent material of chief value	Manufacture of electric storage batteries	Not Made	10 p.c.	6.8 p.c.	0.7	67	46	3	No	
46400-1	Steel dies valued at not less than one thousand dollars each	Stamping metal sheets or metal plates	Not Made	Free	Free	0.0(d)	-	-	4	No	
47605-1 Ex.	Operating room lights designed to minimize shadows, not in- cluding bulbs	N.A.	Not Made	Free	9.2 p.c.	(6.8)	-	629	3	No	
47615-1	Prepared surgical sutures	N.A.	Not Made	Free	Free	7.6	-	-	7	Yes	
53415-1	Press blankets or blanketing	With printing presses	Not Made	Free	Free	0.5	-	-	1	Yes	

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty (c)		Hearing Group	Sub-mission
				Pre-MTN 1979	Concession Rate 1987(a)		1979 MFN Rate(b) \$'000	1987 MFN Rate(b) \$'000		
56255-1	Fabrics	Manufacture of screens for printing	Not Made	Free	Free	0.8	-	-	1	Yes
56705-1	Woven fabrics, wholly or in part of man-made fibres or filaments, in the web or with fused edges	Manufacture of sails for boats or ships	Not Made	Free	7.5 p.c.	2.7	-	204	1	Yes
56710-1	Woven fabrics, wholly or in part of man-made fibres or filaments	Manufacture of insignia for sails for boats and ships	Not Made	7.5 p.c.	(25 p.c.)	0.0(d)	1	3	1	Yes
56930-1	Hat braids, not exceeding six inches in width	Manufacture of hat bodies or shapes	Not Made	Free	(Free)	0.2	-	-	1	Yes
56935-1	Materials	In the manufacture of woven, knitted or plaited hat braids	Not Made	Free	(Free)	0.0(d)	-	-	1	Yes
68200-1 Ex.	Metal swivels and specially-designed needles	Repair of fish nets	Not Made	Free	Free	(22.7)	-	-	7	Yes
85800-1	Zeolites	Manufacture of cracking catalysts for the refining of petroleum	Not Made	Free	Free	0.7	-	-	2	Yes

TABLE 1 (cont.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub- mission
				Pre-MTN 1979	Conces- sion Rate 1987(a)		1979 MFN Rate(b) \$'000	1987 MFN Rate(b) \$'000		
86000-1	Materials	Catalysts in the refining of petroleum	Not Made	Free	Free	13.1	-	-	2	Yes
86400-1	Ackyl thiols, antimony oxide, ferrous sul- phate, magnesium oxide, inorganic pig- ments, surface-active agents, synthetic waxes etc.	Manufacture of ABS resins or ABS moulding compositions	Not Made	Free	Free	0.4	-	-	2	Yes
92944-2	Antibiotics, crude and antibiotic interme- diates in crystalline form	Manufacture of antibiotics	Not Made	Free	9.2 p.c.	0.4	-	39	2	No
93819-14	Chemical products and preparations (with certain exclusions)	Catalysts in Canadian manu- factures	Not Made	Free	Free	21.6	-	-	2	Yes
97052-1	Machines, precision instruments and ap- paratus and control panels therefor	In the production of motor vehicles, motor vehicle parts or motor vehicle accessories (Drawback item)(e)	Not Made	-	-	(f)	-	-	6	Yes
97053-1	Machinery, precision instruments and ap- paratus and control panel therefor	Manufacture of aircraft air- craft engines or airborne aircraft equipment (Drawback item)(e)	Not Made	-	-	(f)	-	-	5	Yes

TABLE 1 (concl.)

Tariff Item	Goods	Specified Use/User	Class or Kind	M.F.N. Tariff		Average Annual Imports 1979-81(b) \$million	Estimated Duty(c)		Hearing Group	Sub- mission
				Conces- sion Rate 1987(a)	Pre-MTN 1979		1979 MFN Rate(b)	1987 MFN Rate(b)		
97056-1	Materials as per tariff item 44205-1	Manufacture of specified machines and equipment for use in specified industries (e.g. logging, agriculture, commercial fishing) (Drawback item)(e)	Not Made	-	-	(f)	-	-	7	Yes
97071-1	Materials	Manufacture or repair of aircraft, aircraft engines, or airborne aircraft equip- ment (Drawback item)(e)	Not Made	-	-	(f)	-	-	5	Yes
Totals:							1,634.5	11,865	18,816	

(a) Entries in brackets indicate earlier binding or binding of parent item(s).

(b) Figures in brackets indicate values in relation to an entire tariff item, as opposed to that part of an item falling within the scope of the reference.

(c) Applied to the average annual value of imports in 1979-81, and assuming all such imports to be subject to the M.F.N. Tariff.

(d) Positive amount of less than \$50,000.

(e) Goods subject to drawback per se are not specifically provided for in MTN Schedule V Tariff Concessions. Prior to 1980 the portion of duty payable as drawback was 99 per cent. The portion now payable is 100 per cent.

(f) No import data available.

REVIEW OF INDIVIDUAL TARIFF ITEMS

In the following pages the assembled facts and opinions derived from the submissions of interested parties and the Board's own research are set out and appraised on a tariff item-by-tariff item basis. In each instance, a review of the referred and related tariff provisions and relevant import statistics is followed by a provisional listing of pertinent commodity classes categorized according to their perceived made-in-Canada status. Next, the tariff proposals received by the Board are set out in point form. The concluding section in regard to each item, or pair of items, contains the staff's observations with respect to the foregoing evidence and the staff's appreciation of possible tariff solutions.

The rates of duty set out in the following pages, reading from left to right, are respectively those applicable under the British Preferential Tariff, the Most-Favoured-Nation Tariff, the General Tariff, the General Preferential Tariff, and the United Kingdom and Ireland Tariff.

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE II

STAFF APPRAISAL
TEXTILE PRODUCTS AND CHEMICALS

SEPTEMBER, 1983

TABLE OF CONTENTS

	<u>Page</u>
TARIFF ITEM 21950-1	
Existing Tariff Provisions	33
Imports	33
Provisional Made-in-Canada Status of Goods	33
Tariff Proposals	36
Staff Appraisal	37
 TARIFF ITEM 53415-1	
Existing Tariff Provisions	39
Imports	39
Provisional Made-in-Canada Status of Goods	39
Tariff Proposals	40
Staff Appraisal	40
 TARIFF ITEM 56255-1	
Existing Tariff Provisions	41
Imports	41
Provisional Made-in-Canada Status of Goods	42
Tariff Proposals	42
Staff Appraisal	42
 TARIFF ITEM 56705-1	
Existing Tariff Provisions	43
Imports	43
Provisional Made-in-Canada Status of Goods	43
Tariff Proposals	44
Staff Appraisal	45
 TARIFF ITEM 56710-1	
Existing Tariff Provisions	45
Imports	45
Provisional Made-in-Canada Status of Goods	46
Tariff Proposals	46
Staff Appraisal	46
 TARIFF ITEM 56930-1	
Existing Tariff Provisions	47
Imports	47
Provisional Made-in-Canada Status of Goods	47
Tariff Proposals	48
Staff Appraisal	48

TABLE OF CONTENTS (CONCL.)

	<u>Page</u>
TARIFF ITEM 56935-1	
Existing Tariff Provisions	49
Imports	49
Provisional Made-in-Canada Status of Goods	49
Tariff Proposals	50
Staff Appraisal	50
TARIFF ITEM 85800-1	
Existing Tariff Provisions	51
Imports	51
Provisional Made-in-Canada Status of Goods	51
Tariff Proposals	52
Staff Appraisal	52
TARIFF ITEM 86000-1	
Existing Tariff Provisions	54
Imports	55
Provisional Made-in-Canada Status of Goods	55
Tariff Proposals	56
Staff Appraisal	58
TARIFF ITEM 86400-1	
Existing Tariff Provisions	59
Imports	60
Provisional Made-in-Canada Status of Goods	60
Tariff Proposals	62
Staff Appraisal	63
TARIFF ITEM 92944-2	
Existing Tariff Provisions	65
Imports	65
Provisional Made-in-Canada Status of Goods	65
Tariff Proposals	66
Staff Appraisal	66
TARIFF ITEM 93819-14	
Existing Tariff Provisions	67
Imports	67
Provisional Made-in-Canada Status of Goods	68
Tariff Proposals	69
Staff Appraisal	72

TARIFF ITEM 21950-1

Existing Tariff Provisions

Chemicals, except antibiotics, of a kind not produced in Canada, without admixture or mixed only with any necessary carrier or diluent, when for use in the manufacture of animal or poultry feeds

Free	Free	25 p.c.	-	Free
------	------	---------	---	------

The item applies to chemicals other than antibiotics, without admixture, or mixed with any necessary carrier or diluent, for use in the manufacture of animal feeds. For the purposes of this item, the term "chemicals" includes not only separate chemically-defined compounds, but also mixtures of such compounds which do not result from a deliberate admixture - e.g. fatty acids (which are a mixture of related acids occurring naturally together in some materials such as corn oil) or a mixture of ethylene glycols resulting from the manufacturing process. Many chemicals, whether or not separate chemically-defined compounds, require to be diluted before they can be used in feedstuffs, and such chemicals, in a diluent, or with an added necessary carrier (because also they are liquid), could, in themselves, be feed supplements. Free entry under the M.F.N. Tariff is bound under GATT. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than "of a class or kind not produced". Revenue Canada has held that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

When of a kind made in Canada and also not qualifying for entry under any other end-use item, the chemicals in question would largely fall under the appropriate headings and tariff provisions of Chapters 928 and 929 of Group XII of the Customs Tariff. Bound rates under GATT vary from Free to 12.5 p.c., dependent upon the individual chemical concerned.

Imports

Imports under tariff item 21950-1 have been substantial, averaging \$39.7 million per annum during the period 1978-80. In 1981, the value of imports reached \$43.2 million.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Customs Memorandum D11-1-1, Appendix B lists those chemicals deemed to be "of a class or kind made or produced in Canada".

(b) Commodity Classes

The following listing is based upon Table 4 of Background No. 8 and sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Chemicals, except antibiotics, without admixture or mixed only with any necessary carrier or diluent, when for use in the manufacture of animal or poultry feeds	
402-19-30 Magnesium oxide	Made
-less than 80% pure	Not Made
-other	Made
402-21-20 Zinc oxide	Not Made
402-81-20 Copper oxides	Not Made
402-99-45 Manganese oxide, except natural	Not Made
403-36-39 Metallic chlorides nes/inorganic	
-cobaltous chloride	Not Made*
-other	Uncertain*
403-71-10 Zinc sulphate	Made
403-84-22 Ferric sulphate	Uncertain*
403-84-24 Cobalt sulphate	Not Made
403-84-25 Manganese sulphate	Not Made
403-84-79 Metallic persulphates nes	Not Made
403-99-23 Sodium phosphate, monobasic	Made
404-06-40 Tricalcium phosphate	Uncertain*
404-17-10 Sodium bicarbonate	Made
404-37-23 Cobalt carbonate	Not Made
404-37-24 Copper carbonate	Not Made
408-89-69 Quinones nes	Not Made
409-58-30 Sorbic acid	Not Made*
(also known as 2,4-hexadienoic acid)	
411-26-12 Ethylenediamine	Not Made
411-26-39 Acyclic polyamines nes	Uncertain*
411-26-79 Cyclanic, cyclenic & cycloterpenic amines nes	Uncertain*
411-49-63 Lysine and its hydrochlorides	Not Made
411-51-25 Choline chloride	Made
411-59-57 3,5-dinitro-o-toluamide	Not Made
411-59-67 2-chloro-4-nitrobenzamide	Not Made
411-59-79 Cyclic amides nes	Uncertain*
411-64-69 Imine function compounds nes	
-robenidine hydrochloride	Not Made*
-other	Uncertain*
412-23-15 Methionine, in bulk	Not Made
412-23-25 Methionine hydroxy analogue calcium	Not Made
412-23-90 Methionine derivatives nes	Not Made
412-33-25 4-hydroxy-3-nitrobenzenearsonic acid	Not Made
(also known as 3-nitro-4-hydroxyphenylarsonic acid/Roxarasone)	
412-74-20 Piperazine, in bulk	Not Made
412-74-35 Metiolorpindol, in bulk	Uncertain*
412-75-12 Ethoxyquin, technical	Not Made
412-76-56 3-(2-quinoxalinylmethylene) carbazate dioxide	Not Made
412-77-55 Furazolidone, in bulk	Uncertain*
412-77-90 Heterocyclic compounds, complex, in bulk, nes	
-dimetridazole	Not Made*
-other	Uncertain*
412-91-90 Sulphonamides nes, in bulk	
-sulphamethazine	Not Made*
-other	Uncertain*

413-10-14	Vitamin A, in bulk	Not Made
413-10-20	Riboflavin, in bulk	Not Made
413-10-22	Niacin and niacinamide, in bulk	Not Made
413-10-24	Pyridoxine, in bulk	Not Made
413-10-26	Folic acid, in bulk	Not Made
413-10-30	Vitamin B-12, in bulk	Not Made
413-10-32	Vitamin B-12, complex, in bulk	Not Made
413-10-36	Vitamin D, in bulk	Not Made
413-10-40	Vitamin E, in bulk	Not Made
413-10-42	Vitamin K, in bulk	Made*
	-vitamin K ₃ (feed grade)	Not Made
	-other	Not Made
413-10-49	Vitamin nes, in bulk	
413-26-79	Hormones, progestational, in bulk nes	Not Made*
	-melengestrol acetate	Uncertain*
	-other	Uncertain*
472-79-10	Magnesia, nes	Uncertain*
875-42-20	Feed supplements containing vitamin A	Uncertain*
875-42-40	Feed supplements containing vitamin E	Uncertain*
875-42-60	Feed supplements containing multivitamins	Uncertain*
875-42-90	Feed supplements containing nutrients nes	Not Made*
875-49-15	Feed supplements containing coccidiostats	Not Made*
875-49-25	Feed supplements containing antihistamonastat	
875-49-30	Feed supplements growth promotants	Not Made*
	-melengestrol acetate starch mixture	Uncertain*
	-other	
875-49-35	Feed supplements containing anthelmintics	Not Made*
	-levamisole hydrochloride resinate	Uncertain*
	-other	Not Made*
875-49-40	Emtryl, feed supplement	
875-49-90	Feed supplements nes	Not Made*
	-decoquinate	Uncertain*
	-other	

* Represents a change from Table 4 and/or a class regarding which further information is required.

With respect to changes made to the listing of goods as set out in Table 4, it should be noted that, in spite of substantial imports under tariff item 21950-1, all commodity classifications commencing with the digits 875 were originally screened out in the belief that they had been inappropriately coded to the tariff item at issue. The 5-digit commodity classes 875-40, 875-42, 875-44 and 875-49 all relate to feed supplements, and for all 7-digit categories under these classes, tariff item 21950-1 is shown in the Canadian International Trade Classification (CITC) as a "tariff item commonly applied". However, 875-40 applies to feed supplements containing antibiotics, while 875-44 (which covers only one 7-digit class) relates to feed supplements containing antibiotic-vitamin combinations. It would appear that goods encompassed by these latter commodity descriptions are not properly admissible under tariff item 21950-1 by virtue of its nomenclature, which specifies "except antibiotics". However, in the light of representations from interested parties, and following further inquiry, classes 875-42 ("feed supplements containing nutrients") and 875-49 ("feed supplements nes") are now deemed relevant and the 7-digit categories encompassed thereby have, accordingly, been added to the original Table 4 listing.

Other 5-digit commodity classes to register substantial imports under item 21950-1 have included 875-20 ("immunological agents, veterinary use"), 875-25 ("antibiotics, in dosage, veterinary use"), 875-30 ("nutriments, in dosage, veterinary use"), and 875-99 ("veterinary medicines nes, in dosage"). The first of these classes would appear to be irrelevant, while goods falling under 875-25 should seemingly have been excluded, by definition, as "antibiotics". With respect to the remaining two classes (875-30 and 875-99), it is conceivable that veterinary preparations might be mixed into feeds for giving to animals, but is hard to conceive of these being in dosage form, as the manufacturing process would have to be very precise to prevent an overdose. Unless a farmer or a veterinarian, mixing his own feeds, is considered to be manufacturing, it is difficult to see how these classes could apply. Nonetheless, substantial imports were coded to some of the pertinent 7-digit classes, and observations on the subject are invited.

In addition to the changes noted in the penultimate paragraph, the following classes of commodities have also been added to the original product listing in order to accommodate certain ("not made") goods imported by the companies indicated: c.c. 403-36-39, 411-64-69 and 412-91-90 (to provide for cobaltous chloride, robenidine hydrochloride and sulphamethazine respectively, at the request of Cyanamid Canada Inc.); c.c. 409-58-30 (encompassing sorbic acid, in response to Monsanto Canada Inc.); c.c. 413-26-79 (including melengestrol acetate, of especial interest to Tuco Products Company); and c.c. 412-77-90 (to provide for dimetridazole, imported by May & Baker Canada Inc.). This latter company also draws the Board's attention to more commonly-used terms for the compound 4-hydroxy-3-nitrobenzenearsonic acid (c.c. 412-33-25), and it queries the provisional "made" description accorded to vitamin K₃ (feed grade), classifiable under c.c. 413-10-42, on the ground that "the only contribution [of a Canadian company] to the manufacturing process" is the preparation of imported menodione (i.e. vitamin K₃) with a diluent in order to sell it to feed manufacturers.

Tariff Proposals

May & Baker Canada Inc., while advocating various changes to the provisional listing of chemicals admissible under tariff item 21950-1, as recorded in Table 4 of Background No. 11, has not indicated any preference respecting an alternative to the present system of tariff classification.

Likewise, Monsanto Canada Inc. has "no specific recommendation with respect to the structure of a tariff item to accommodate the elimination of the 'not made' criterion".

Tuco Products Company, Division of Upjohn, recommends:

- (i) "an eo nomine list of chemicals in conjunction with the present wording of tariff item 21950-1";
- (ii) a continuation of duty-free entry under the item.

Cyanamid Canada Inc. advocates:

- (i) a chemical definition of all imported materials properly classified under the item (in this connection, 7-digit non-specific or "nes" commodity classes are "not adequate");
- (ii) a revised wording, as follows:

The following chemicals, without admixture or mixed only with any necessary carrier or diluent, when for use in the manufacture of animal or poultry feeds, namely: (an alphabetical eo nomine listing of goods).

- (iii) as an alternative to the above, elimination of the item, "adding the specific imported chemicals on an eo nomine and end-use basis [at preferential rates of duty?] under the respective tariff items in Chapters 928 and 929 [of the Customs Tariff] under which they would otherwise be classified".

Staff Appraisal

1. Unless information is forthcoming concerning the made-in-Canada status of the "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of whatever data are available.

2. However, present evidence indicates that the overwhelming preponderance of relevant products are not produced in Canada. Accordingly, the most practical tariff arrangement would be to exclude the "made" goods from a modified version of the existing item. Such a solution would have the additional advantage of circumnavigating the definitional problem relating to non-specific or "nes" commodity classes, since none of these has so far been designated as "made".

3. By the omission of the phrase "except antibiotics", the nomenclature proposed by Cyanamid Canada Inc. would have the effect of significantly expanding the scope of item 21950-1.

4. It is noted that most of the products covered by the item could be provided for by an amendment to the Chemicals and Plastics Tariff Reduction Order. This would apply to:

- (a) separate chemically-defined compounds;
- (b) vitamins (all c.c. commencing with 413-10) and hormones (all c.c. commencing with 413-26), whether or not chemically defined, or vitamins in admixture;
- (c) the goods mentioned in (a) and (b) dissolved in water;

- (d) the goods mentioned in (a) and (b) dissolved in solvents other than water if the solution constitutes a normal and necessary method of putting up these products adopted solely for reasons of safety or for transport and if the solvent does not render the product particularly suitable for specific uses rather than for general use; and
- (e) the goods mentioned in (a), (b), (c) or (d) with an added stabilizer necessary for their preservation or transport.

Other provisions would still be required for admixtures now admissible under the item but not provided for in the foregoing.

TARIFF ITEM 53415-1

Existing Tariff Provisions

Press blankets or blanketing, of a class or kind not made
in Canada, for use with printing presses

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

Free entry under the M.F.N. Tariff is bound under GATT.

When of a class or kind made in Canada, the press blankets and
blanketing would be classified under item 53417-1. This is worded:

Press blankets or blanketing, n.o.p., for use with printing
presses

1/1/83	10 p.c.	14.2 p.c.	25 p.c.	9 p.c.	12.5 p.c.
1/1/84		13.8 p.c.		9 p.c.	
1/1/87		12.5 p.c.		8 p.c.*	

* Assuming that the G.P.T. is still in existence in 1987, with rates calculated as at present.

Imports

In 1979-81, the average annual value of imports under tariff item
53415-1 amounted to only \$547,000. Imports under the corresponding provision
for "made" goods (item 53417-1) averaged \$4.2 million.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Effective January 11, 1971, Customs Memorandum D51-11 ruled press
blankets and blanketing for offset printing presses to be of a class or kind
made in Canada. However, this ruling does not appear to have been carried
forward in the more recent D11 series.

(b) Commodity Classes

The following listing is taken from Table 4 of Background No. 8 and
sets out the provisional made-in-Canada status of goods falling under the
aforementioned tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Press blankets or blanketing for use with printing presses	
526-46-20	Blanketing, printing presses	Made*
	-for offset printing presses	Not Made
	-other	
526-46-90	Blankets or blanketing for printing industry, nes	Made*
	-for offset printing presses	Not Made
	-other	

* Indicates a change from Table 4.

The Canadian Textiles Institute has not indicated disagreement with the initial provisional "not made" designation attached to press blankets or blanketing. However, further investigation has established that such goods, when for use with offset printing presses, are produced by Dayco (Canada) Limited, Weston, Ontario.

Tariff Proposals

The Canadian Textiles Institute was the only party to present a brief in respect of item 53415-1. The Institute indicates:

- (i) it would not object to the continuation of a duty-free item, without the words "of a class or kind not made in Canada";
- (ii) doubts as to whether there would be any purpose in continuing tariff item 53415-1 at all "as it would merely duplicate item 53417-1 if the restrictive phrase 'of a class or kind not made in Canada' were deleted".

Staff Appraisal

1. Press blankets and blanketing for offset printing presses are made in Canada.

2. It is understood that printing in Canada nowadays is mostly by means of the offset (as opposed to the letterpress) method.

3. Items 53415-1 and 53417-1 might be combined into a single tariff arrangement, with no reference to "class or kind", providing protection (as at present) for press blankets and blanketing for use with offset printing presses and duty-free entry for other pertinent goods.

TARIFF ITEM 56255-1

Existing Tariff Provisions

Prior to the MTN, this was a temporary (Order in Council) item, created under the authority of Section 273 of the Customs Act. It has since been transformed into a statutory item. Its coverage is indicated by its wording:

Fabrics, of a class or kind not made in Canada, for use in
the manufacture of screens for printing

Free	Free	45 p.c.	Free	Free
------	------	---------	------	------

Free entry under the M.F.N. Tariff is bound under GATT.

Although the item itself contains no specifications as to the types of fibres used, and does not prescribe that the fabrics must be woven, it is understood that virtually all fabrics used for the purpose specified meet the commodity description of tariff item 56205-1; this description would apply to fabrics of a class or kind made in Canada for use in the manufacture of screens for printing, or to all such fabrics in the absence of item 56255-1. The wording of item 56205-1 is as follows:

Woven fabrics, wholly or in part [containing more than five per cent, by weight] of man-made fibres or filaments or of glass fibres or filaments, not containing wool or hair, not including fabrics more than fifty per cent, by weight, of silk:

Exceeding twelve inches in width

1/1/83	20.2 p.c.	25 p.c. &	45 p.c. &	-	25 p.c.
per lb.		10 cts.	40 cts.		
1/1/84		25 p.c. &			
per lb.		7.5 cts.			
1/1/87		25 p.c.			

The M.F.N. rate applicable to item 56205-1 was bound at 25 p.c. in the MTN.

Imports

Imports under tariff item 56255-1 have been comparatively small, amounting to \$0.8 million in 1979, \$0.7 million in 1980 and \$1.0 million in 1981. By contrast, imports under related item 56205-1 totalled \$60.4 million in 1981.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There appear to be no published made-in-Canada rulings pertaining to goods classifiable to item 56255-1.

(b) Commodity Classes

The following listing is taken from Table 4 of Background No. 8 and sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Fabrics for use in the manufacture of screens for printing	
371-49-90	Broad woven fabric, silk over 5%, nes, excludes silk-wool	Not Made
375-39-90	Nylon fabric 95% & over woven broad, nes	Not Made
375-45-25	Polyester filament fabric, 95% & over woven broad	Not Made

The Canadian Textiles Institute agrees that textile fabrics for use in the manufacture of screens for printing are not made in Canada.

Tariff Proposals

The Canadian Textiles Institute was the only party to present a brief in respect of item 56255-1. The Institute, on behalf of its members who are dyers and finishers, requests:

- (i) continuation of tariff item 56255-1, with deletion of the qualifying clause "of a class or kind not made in Canada";
- (ii) continued duty-free entry for fabrics imported for the aforementioned end use.

Staff Appraisal

1. The goods in question are not apparently made in Canada.

2. Assuming no representations to the contrary, a revised version of the nomenclature of the item might be retained without the qualifying clause "of a class or kind not made in Canada".

TARIFF ITEM 56705-1

Existing Tariff Provisions

Woven fabrics, wholly or in part of man-made fibres or filaments, in the web or with fused edges, of a type not made in Canada, for use in the manufacture of sails for boats and ships

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, originally created in 1963 under the authority of section 273 of the Customs Act, providing for certain types of woven fabrics as described in the item. It will be noted that the word "type" is used instead of "class or kind". Although this remains a temporary item, with an effective rate of Free, entry under the M.F.N. Tariff was bound at 7.5 p.c. in the MTN. The item is currently scheduled to expire on June 30, 1983.

When of a type made in Canada, or in the absence of this item, the goods would be classified in the parent item 56700-1, which is worded:

Sails for boats and ships; textile fabrics, in the web or with fused edges, for use in the manufacture of such sails

This item carries a M.F.N. rate of 20 p.c., bound under GATT in the Kennedy Round.

Imports

In the period 1979-81, the average annual value of imports under item 56705-1 amounted to \$2.7 million. Corresponding imports under item 56700-1 (encompassing "made" sail fabrics) were valued at \$1.2 million.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There appear to be no published made-in-Canada rulings pertaining to goods classifiable under item 56705-1.

(b) Commodity Classes

The following listing is taken from Table 4 of Background No. 8 and sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
	Woven fabrics, wholly or in part of man-made fibres or filaments, in the web or with fused edges, for use in the manufacture of sails for boats and ships	
375-39-25	Nylon filament fabric, 95% & over woven broad	Not Made
375-39-90	Nylon fabric, 95% & over woven broad, nes	Not Made
375-45-25	Polyester filament fabric, 95% & over woven broad	Not Made
375-45-90	Polyester fabric, 95% & over woven broad, nes	Not Made
375-99-90	Man-made fibre fabric 95% & over woven broad, nes	Not Made
377-65-40	Non-apparel fabric, rayon/polyester, woven broad	Not Made

The Canadian Textiles Institute states that while the fabrics encompassed by item 56705-1 are not at present made in Canada, members of the C.T.I. do have the capability to manufacture such fabrics for use in the manufacture of sails.

Tariff Proposals

The Canadian Textiles Institute presented the only submission in respect of tariff item 56705-1. The Institute indicates:

- (i) it would not object to the continuation of a duty-free item, without the words "of a type not made in Canada";
- (ii) in view of capability to manufacture the relevant fabrics in Canada, item 56705-1 should continue to exist on a temporary basis, i.e. the item should not be made statutory.

Staff Appraisal

1. None of the pertinent goods falling under tariff item 56705-1 presently appears to be made in Canada. Thus, continued free entry would not seem to pose any problems for the Canadian textile industry, while being of benefit to domestic manufacturers of sails.

2. A modified version of the existing nomenclature of the item might be retained, omitting the words "of a type not made in Canada".

3. However, to extend the item on a temporary basis, in its present or modified form, as suggested by the Canadian Textiles Institute, would still leave a degree of uncertainty with respect to the ultimate tariff treatment of the goods in question.

TARIFF ITEM 56710-1

Existing Tariff Provisions

Woven fabrics, wholly or in part of man-made fibres or filaments, of a type not made in Canada, whether or not coated or impregnated or backed with removable paper, for use in the manufacture of insignia for sails for boats and ships

Free 7.5 p.c. 25 p.c. Free 7.5 p.c.

This is a temporary tariff item, originally created in 1971 under the authority of section 273 of the Customs Act, providing for certain types of fabrics as described in the item. As in item 56705-1, the word "type" replaces "class or kind". The item is currently scheduled to expire on June 30, 1983. It is not bound under GATT but would be subject to the binding applicable to its parent item (see below).

In the absence of item 56710-1, or when of a type made in Canada, the relevant goods would fall under the parent item 56205-1. Under the latter item, the M.F.N. rate was bound at 25 p.c. in the MTN.

Imports

During the period 1979-81, average annual imports under item 56710-1 amounted to only \$10,000. However, this low level of importation may be accounted for, in part, by the fact that insignia for sails are apparently ordinarily made from the same types of fabrics as the sails to which they are applied, admissible under item 56705-1 (see above).

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There appear to be no published made-in-Canada rulings pertaining to goods classifiable to item 56710-1.

(b) Commodity Classes

The following listing is taken from Table 4 of Background No. 8 and sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
	Woven fabrics, wholly or in part of made-made fibres or filaments, whether or not coated or impregnated or backed with removable paper, for use in the manufacture of insignia for sails for boats and ships	
375-39-90	Nylon fabric, 95% & over woven broad, nes	Not Made
375-45-90	Polyester fabric, 95% & over woven broad, nes	Not Made

The Canadian Textiles Institute concurs with the provisional determination that the goods listed above are not made in Canada when for use in the manufacture of insignia for sails.

Tariff Proposals

The Canadian Textiles Institute made the only submission respecting tariff item 56710-1. The Institute indicates:

(i) it would not object to the continuation of the item, without the clause "of a type not made in Canada", at such duty rates (including Free) "as the Board may see fit to recommend".

Staff Appraisal

1. The goods described in item 56710-1 are apparently not made in Canada.
2. In view of the low value of imports under the item, it might be deleted from the Customs Tariff.
3. Alternatively, the provisions of the item, without the "not made in Canada" clause, might be made statutory.

TARIFF ITEM 56930-1

Existing Tariff Provisions

The coverage of this item is indicated by its wording:

Hat braids, of a class or kind not made in Canada, whether woven, knitted or plaited, not exceeding six inches in width, for use in the manufacture of hat bodies or shapes, but not for use in the ornamentation or trimming of such bodies or shapes

Free Free Free Free Free

Free entry under the M.F.N. Tariff is bound under GATT.

In the absence of this item, or when of a class or kind made in Canada, hat braids would fall under tariff item 56510-1 as "braids of all kinds, n.o.p.". The M.F.N. rate under this item was bound at 20 p.c. in the MTN.

Imports

Imports under item 56930-1 have been of comparatively small value, amounting to \$133,000 in 1979, \$194,000 in 1980, and \$356,000 in 1981.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There appear to be no published made-in-Canada rulings pertaining to goods classifiable to item 56930-1.

(b) Commodity Classes

The following listing is taken from Table 4 of Background No. 8 and sets forth the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Hat braids, whether woven, knitted or plaited, not exceeding six inches in width, for use in the manufacture of hat bodies or shapes, but not for use in the ornamentation or trimming of such bodies or shapes	
389-02-10	Hat braids, textile, not over 6 inches wide	Not Made
496-04-20	Braid, hat, non-textile	Not Made

Tariff Proposals

The Canadian Textiles Institute was the only party to comment upon tariff item 56930-1. The Institute indicates:

(i) it would not object to the continuation of this item, without the phrase "of a class or kind not made in Canada", provided that the end-use requirement remains unchanged.

Staff Appraisal

1. The hat braids described in item 56930-1 do not appear to be made in Canada.

2. The item might be retained, without the clause "of a class or kind not made in Canada".

3. Alternatively, in view of the low level of imports, the item might be eliminated.

TARIFF ITEM 56935-1

Existing Tariff Provisions

This item provides for "materials" of a class or kind not made in Canada for use in the manufacture of hat braids. Such materials would principally consist of fibres, filaments, yarns or rovings of various textile materials. The item is worded:

Materials, of a class or kind not made in Canada, for use
in the manufacture of woven, knitted or plaited hat braids

Free Free Free Free Free

Free entry under the M.F.N. Tariff is bound under GATT.

In the absence of this item, or when of a class or kind made in Canada, the materials cited above would be classified under a wide range of items depending upon their textile composition and degree of manufacture.

Imports

Imports under item 56395-1 in 1979 were valued at \$11,000; there were no recorded imports in 1980 and 1981.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There appear to be no published made-in-Canada rulings pertaining to goods classifiable to item 56935-1.

(b) Commodity Classes

The following listing is taken from Table 4 of Background No. 8 and sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Materials for use in the manufacture of woven, knitted or plaited hat braids	
389-99-90	Textile fabricated materials nes	Not Made
496-04-90	Hat & cap materials, non-textile nes	Not Made

The Canadian Textiles Institutes claims that certain fibres and yarns produced in Canada "are used in the manufacture of certain types of hat braids". It is not known whether such fibres and yarns would fall under either of the above-listed commodity classes. It is presumed that the braids would be "for use in the ornamentation or trimming" of hat bodies or shapes (not admissible under tariff item 56930-1, above).

Tariff Proposals

The Canadian Textiles Institute was the only party to present a brief in respect of item 56935-1. The Institute states:

- (i) it would object to the mere deletion of the phrase "of a class or kind not made in Canada", as this would extend duty-free entry to unspecified fibres and yarns now made in Canada for use in the manufacture of hat braids;
- (ii) this objection would not be maintained if the specified end use were to be narrowed to "the manufacture of hat braids of tariff item 56930-1".

Staff Appraisal

1. If an eo nomine listing is to be developed, more definitive information is required respecting the product specifications and made-in-Canada status of the pertinent goods.

2. In the light of the value of recent imports, it would appear that item 56935-1 could be deleted from the Customs Tariff without causing undue disruption to the business of domestic users.

3. Alternatively, as broached by the Canadian Textiles Institute, a more restrictive end-use application might be acceptable as a trade-off for the elimination of the clause "of a class or kind not made in Canada".

TARIFF ITEM 85800-1

Existing Tariff Provisions

Zeolites of a kind not produced in Canada for use in the
manufacture of cracking catalysts for the refining of
petroleum

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

The coverage of this tariff item is indicated by its wording. Prior to the MTN negotiations this was a temporary (Order in Council) item created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item. Free entry under the M.F.N. Tariff is bound under GATT. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than of a "class or kind not produced". Revenue Canada has held that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

When of a kind made in Canada, the zeolites addressed in this item would generally be classified in tariff item 93819-1, with a M.F.N. bound rate of 12.5 p.c. Exceptions would be any zeolites which are: (a) single chemically-defined compounds, which would be classified in the appropriate item or sub-item under the proper headings of Chapters 928 and 929 of Group XII of the Customs Tariff; (b) crude natural products which would be classified according to their own nature or material; or (c) themselves catalysts as described in tariff item 93819-5. This latter item is worded:

Catalyst preparations for cracking petroleum, other than
the fluid-bed type.

The M.F.N. rate applying to item 93819-5 is bound at Free under GATT.

Imports

The average annual value of imports under tariff item 85800-1 in 1978-80 amounted to \$677,000. Imports in 1981 were valued at \$1.2 million.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Made-in-Canada rulings respecting chemicals are published in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1, Appendix B. The Board has no information as to the extent to which these rulings are relevant to tariff item 85800-1.

(b) Commodity Classes

The following listing is based on the information contained in Table 4, Background No. 8, and sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Zeolites for use in the manufacture of cracking catalysts for the refining of petroleum	
279-99-90 Non-metallic minerals, crude, nes	Uncertain*
429-22-50 Catalysts, vanadium, compounded	Uncertain*
429-22-70 Catalysts, silica-aluminum, compounded	Made
429-22-79 Catalysts, petroleum refining, nes	Not Made
429-22-89 Compound catalysts, nes	Uncertain*
429-62-80 Ion exchangers, except synthetic resins	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

The addition of c.c. 279-99-90 ("non-metallic minerals, crude, nes") is based on the index to the Canadian International Trade Classification (CITC), which indicates that this is the appropriate class for crude natural zeolites.

Tariff Proposals

Shell Canada Limited made the only submission relating to tariff item 85800-1. In its submission, the company proposes:

- (i) retention of a modified version of the existing nomenclature, the words "of a kind not produced in Canada" and "cracking" being deleted;
- (ii) the introduction of a dutiable provision for named zeolites of a kind produced in Canada;
- (iii) a nomenclature worded:

Zeolites for use in the manufacture of catalysts for the refining of petroleum with the exception of the following:
- (list of exceptions ...)

- (iv) duty-free entry of other materials imported for the manufacture of catalysts, when such materials are not available in Canada.

Staff Appraisal

1. Further information is required regarding the nature and purpose of zeolites, and the applicable commodity classes. It seems strange that, with two exceptions, the commodity classes indicated above as being of relevance to this item cover "catalysts" of one kind or another, thus suggesting that many of the zeolites which are used in the manufacture of petroleum cracking

catalysts are themselves catalysts. There are apparently zeolites which are "ion exchangers" and others which are "crude non-metallic minerals", but it seems doubtful that these exhaust the list of non-catalyst possibilities. In the absence of further information, it will be difficult to deal adequately with this item.

2. On the basis of the limited information now available, the Shell proposal has merit. However, it is noted that the proposal (under (iv), above) to include other materials would probably considerably broaden the coverage of the item, while the significance of the deletion of the word "cracking" requires elaboration.

3. In the absence of further information concerning the made-in-Canada status of the "uncertain" commodity classes, these will have to be assigned for duty purposes on the basis of whatever information is available.

TARIFF ITEM 86000-1

Existing Tariff Provisions

Materials of a kind not produced in Canada for use only as catalysts in the refining of petroleum

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

Prior to the MTN, this was a temporary item created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item and free entry under the M.F.N. Tariff is bound under GATT. It will be noted that the made-in-Canada criterion is "kind", not "class or kind". In the case of chemical products, such as are involved here, Revenue Canada, Customs and Excise, has tended to hold that to be of the same "kind", chemical products must be virtually identical. The word "materials" used in this item covers single natural materials usable as catalysts, which would otherwise be classified according to their own material or nature. The term is also broad enough to include both prepared or compounded catalysts and catalysts which are separate chemically-defined compounds.

The latter goods, in the absence of item 86000-1, or when of a "kind produced" in Canada, would fall under the appropriate provisions of Chapters 928 and 929 of Group XII of the Customs Tariff, at various rates of duty. The alternative provisions for compounded or prepared petroleum catalysts all fall under heading 93819 of Group XII. Thus:

93819 - Chemical products and preparations of the chemical or allied industries (not including those consisting of mixtures of natural products other than compounded extenders for paints), n.o.p.; residual products of the chemical or allied industries, n.o.p.; not including soap, nor pharmaceutical, flavouring, perfumery, cosmetic or toilet preparations:

93819-1 Other than the following

1/1/83	10 p.c.	13.8 p.c.	25 p.c.	9 p.c.	12.5 p.c.
1/1/84		13.4 p.c.		8.5 p.c.	
1/1/87		12.5 p.c.		8 p.c.*	

* Assuming that the GPT is still in effect, with rates calculated as at present.

93819-5 Catalyst preparations for cracking petroleum, other than the fluid-bed type

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

93819-14 Materials, of a class or kind not made in Canada, which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufactures

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

It will be noted that tariff item 93819-14 is limited to goods "of a class or kind not made in Canada" (see separate appraisal for this item) and that the rates of duty under tariff items 93819-5 and 93819-14 are identical with those under tariff item 86000-1. The Board has no information as to the possible relevance of other tariff items under heading 93819.

Imports

In 1978-80, average annual imports under tariff item 86000-1 amounted to \$9.9 million. For 1981, imports were valued at \$15.9 million.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1, Appendix B lists the following petroleum catalysts as being "of a class or kind made or produced in Canada":

Hydrotreating catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization (sic), denitrogenation and polyaromatic saturation of petroleum feed stocks.

Fluid bed silica-alumina cracking catalyst for use in the refining of petroleum, composed of

- (a) Synthetic components (Silica Alumina),
- (b) Clay and synthetic components (Silica Alumina).

(b) Commodity Classes

The following listing is based on the information contained in Table 4, Background No. 8 and sets out the provisional made-in-Canada status of goods falling under tariff item 86000-1.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Materials for use only as catalysts in the refining of petroleum	
412-29-89	Organo-sulphur compounds nes	
	-dimethyl disulphide	Not Made*
	-other	Uncertain*
429-22-20	Catalysts, aluminum, compounded	Uncertain*
429-22-30	Catalysts, nickel, compounded	
	-hydrotreating	Made
	-other	Not Made
429-22-40	Catalysts, platinum, compounded	Not Made
429-22-70	Catalysts, silica-aluminum, compounded	
	-fluid bed, cracking	Made*
	-other	Uncertain*

429-22-72	Catalysts, clays, compounded	Uncertain*
429-22-73	Catalysts, phosphoric, compounded	Not Made
429-22-75	Catalysts, molybdenum-cobalt, compounded	
	-hydrotreating	Made*
	-other	Uncertain*
429-22-79	Catalysts, petroleum refining, nes	Not Made
429-22-89	Compound catalysts, nes	
	-UOP Merox No. 2	Not Made*
	-other	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Commodity classes 429-22-70 ("catalysts, silica-aluminum, compounded") and 429-22-75 ("catalysts, molybdenum-cobalt, compounded") have been added to the original product listing to accord with the departmental ruling cited above, so far as this is understood, while the provisional made-in-Canada status of c.c. 429-22-72 ("catalysts, clays, compounded") has been changed from "not made" to "uncertain" in the light of this ruling. Observations on these matters are invited. The addition of c.c. 412-29-89 ("organo-sulphur compounds nes") reflects the view advanced by M & T Chemicals Ltd. that dimethyl disulphide, normally imported under tariff item 92931-1 at a (1983) M.F.N. rate of duty of 13.8 p.c. (1987 bound rate, 12.5 p.c.), has a potential use as a petroleum catalyst. No information has been provided to the Board with respect to other separate chemically-defined compounds, or single natural substances, which may be used as petroleum catalysts. A chemical description is required for the compound catalyst UOP Merox No. 2, which Gulf Canada Limited imports under commodity class 429-22-89 ("compound catalysts, nes"). Gulf has expressed concern respecting the broad coverage of this class and of c.c. 429-22-30 ("catalysts, nickel, compounded").

Tariff Proposals

Shell Canada Limited of Toronto, Ont., proposes:

- (i) tariff item 86000-1 be eliminated and its provisions combined with those of tariff item 93819-14;
- (ii) a new item 93819-14 be established, with the wording:

Materials for use only as catalysts in Canadian manufactures with the exception of the following:

1. Fluid bed silica-alumina cracking catalyst for use in the refining of petroleum, composed of:-
 - (1) Synthetic components (Silica Alumina),
 - (2) Clay and synthetic components (Silica Alumina)
2. Catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and poly-aromatic saturation of petroleum feed stocks, in hydro-treating service only
3. Nickel based catalysts in a fatty ester carrier for use in the hydrogenation of vegetable, animal and marine oils and other fatty materials;

- (iii) goods under the new item 93819-14 be free of duty with the named exceptions dutiable, as at present.

Imperial Oil Limited of Toronto, Ont., favours:

- (i) retention of a modified version of tariff item 86000-1 (in this connection, objecting to the Shell proposal, above, on the ground that any item falling under heading 93819 would, by definition, be limited to compounded or mixed materials, while existing item 86000-1 can apply to separate chemically-defined compounds, or to single natural materials, when used as catalysts in the refining of petroleum);
- (ii) specifying only "made" goods, because of difficulties in establishing a comprehensive listing of "not made" products;
- (iii) replacing existing tariff item 86000-1 by the following:

Materials for use only as catalysts in the refining of
petroleum

Free

Free

25 p.c.

with the exception of the following:

- Fluid bed silica - alumina cracking catalyst, composed of synthetic components (Silica Alumina) or clay and synthetic components (Silica Alumina).

- Hydrotreating catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and poly-aromatic saturation of petroleum feedstocks.

Rates of duty as per tariff item 93819-1 [i.e. 1987
M.F.N. rate of 12.5 p.c.]

Gulf Canada Limited of Toronto, Ont., recommends:

- (i) an item identical to that proposed by Imperial Oil Limited (see above);
- (ii) the use of "more defined" commodity descriptions so that "not made" catalysts continue to enjoy duty-free treatment.

The Ontario Petroleum Association favours:

- (i) naming the "made" goods, in view of the difficulties of listing or adequately describing the "not made" catalysts currently in use;
- (ii) an item identical to that proposed by Imperial Oil and Gulf (two of its members).

May & Baker Canada Inc. of Mississauga, Ont., an associate of the Institute Francais de pétrole, indicated in a verbal statement, its support of the position taken by Imperial Oil.

Cyanamid Canada Inc. of Willowdale, Ont., which manufactures hydro-treating catalysts, proposes a wording for item 86000-1 identical to that put forward by Imperial Oil, Gulf and the Ontario Petroleum Association.

M & T Chemicals Ltd. of Hamilton, Ont., a manufacturer and distributor of specialty chemicals, seeks to retain the current status of tariff item 86000-1.

Staff Appraisal

1. Unless information is forthcoming concerning the made-in-Canada status of "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of whatever data are presently available.

2. Any merger of tariff items 86000-1 and 93819-14, as proposed by Shell Canada Limited, must overcome two differences between the items: (a) the broader coverage of tariff item 86000-1, which includes in addition to the compounds (mixtures) of tariff item 93819-14, both separate chemically-defined compounds and unmixed natural substances; and (b) the "made in Canada" criterion of "kind" in the former item and "class or kind" in the latter.

3. A combined item subject to heading 93819 would be limited to compounded (mixed) catalysts. With respect to such catalysts, listings based on "class or kind" would probably be acceptable and could, in the case of "made" goods, be derived from the existing rulings (modified to meet the needs of Emery Industries Limited - see item 93819-14, infra). When "not produced in Canada", separate chemically-defined compounds for use as catalysts in the refining of petroleum could be provided with free entry under the M.F.N. Tariff, by amending section 8(b) of the Chemicals and Plastics Tariff Reduction Order (P.C. 1981-2857, October 15, 1981, as amended - Revenue Canada, Customs and Excise, Departmental Memorandum D12-3-1), by adding the words "or for use only as catalysts in the refining of petroleum". With respect to any unmixed natural materials for use as petroleum catalysts, many of these would be admitted free of duty under alternate tariff provisions. None of those admissible under tariff item 86000-1 and dutiable when classified elsewhere, have been brought to the Board's attention.

4. The proposal set forth under the submissions of Imperial Oil Limited, Gulf Canada Limited, the Ontario Petroleum Association and Cyanamid Canada Inc., would exclude the mixed catalysts known to be made in Canada, but makes no provision for the exclusion of any "made" unmixed natural products or separate chemically-defined compounds which are used or usable as petroleum catalysts. No list of such products, either "made" or "not made", has been provided.

5. This latter proposal would lock in free entry for any relevant products which, in future, may come to be made in Canada.

6. Regardless of the approach adopted, it would appear that non-referred tariff item 93819-5 is redundant.

7. Inasmuch as items 86000-1 and 93819-14 are now statutory and no longer dependent on section 273 of the Customs Act, it seems unnecessary to describe the goods in any replacement item or items, as "materials for use as catalysts" rather than simply as "catalysts".

TARIFF ITEM 86400-1

Existing Tariff Provisions

Alkyl thiols; N,N-bis (2-hydroxyethyl) alkyl amines; anti-mony oxide; ferrous sulphate, heptahydrate; inorganic pigments; magnesium oxide; surface-active agents; synthetic waxes; all the foregoing, of a kind not produced in Canada, for use in the manufacture of ABS resins or ABS moulding compositions

Free Free 15 p.c. Free Free

Prior to the MTN, this was a temporary (Order in Council) item, created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item. Its coverage is indicated by its wording. Free entry under the M.F.N. Tariff is bound under GATT. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than "of a class or kind not produced". Revenue Canada has held that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

In the absence of the item, or when of a kind produced in Canada, the goods would be dutiable as follows:

	<u>Item</u>	<u>Bound Rate</u>
Alkyl thiols		
- separate chemically defined compounds	92931-1	12.5 p.c.*
- other	93819-1	12.5 p.c.
N,N-bis-(2-hydroxyethyl) alkyl amines		
- separate chemically defined compounds	92923-1	12.5 p.c.*
- other	93819-1	12.5 p.c.
Antimony oxide		
- natural	33502-1	Free
- chemical	92828-2	Free
Ferrous sulphate, heptahydrate	92838-11	8.5 p.c.
Inorganic pigments	93207-3	12.5 p.c.
Magnesium oxide		
- 94 p.c. pure or over	92818-2	Free
- other	29610-1	9.2 p.c.
Surface-active agents	93402-1	12.5 p.c.
Synthetic waxes	93404-1	6.8 p.c.

* Under the Chemicals and Plastics Tariff Reduction Order, some of the relevant products would be allowed free entry when imported for the uses specified in item 86400-1.

Imports

The average annual value of imports during the period 1978-80 was \$548,000. In 1981, imports were recorded at \$238,000. As the figures indicate, item 86400-1 is not of great significance in terms of the value of imports into Canada.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 Appendix B contains rulings on the made-in-Canada status of chemicals. Further information is required as to the relevance of these rulings to tariff item 86400-1.

(b) Commodity Classes

The following listing, based on Table 4, Background No. 8, sets out the provisional made-in-Canada status of goods falling under item 86400-1.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
For use in the manufacture of ABS resins or ABS moulding compositions:	
Alkyl thiols	
412-20-23 Dodecyl mercaptan	Not Made
412-20-90 Mercaptans nes	Not Made
N, N-bis (2-hydroxyethyl) alkyl amines	
411-49-19 Acyclic amino-alcohols and derivatives nes	Not Made*
Antimony oxide	
402-61-10 Antimony oxides	Not Made
Ferrous sulphate, heptahydrate	Uncertain*
Inorganic pigments	
400-25-20 Carbon black	Made
427-33-22 Pigments, inorganic, orange, cadmium	Made
427-33-29 Pigments, inorganic, orange, nes	
-chrome orange; molybdate orange	Made
-other	Not Made
427-33-32 Pigments, inorganic, yellow, cadmium	Made
427-33-34 Pigments, inorganic, yellow, chrome	Made
427-33-36 Pigments, inorganic, yellow, zinc chromate	Made
427-33-39 Pigments, inorganic, yellow, nes	
-strontium chromate	Made
-other	Not Made

427-35-15	Pigments, inorganic, green	Made
427-35-25	Pigments, inorganic, blue, ultramarine blue	Not Made
427-35-26	Pigments, inorganic, blue, except ultramarine blue	
	-iron blue	Made
	-other	Not Made
427-38-20	Pigments, inorganic, maroon	Not Made
427-38-37	Pigments, inorganic, red	Not Made
427-99-89	Pigments, colour lakes and toners nes	
	-hansa yellow; orange toner; methyl violet & tones; para red; lithol red; toluidine red; lithol rubine; rhodamine toner; naphtol red; Red Lake C	Made
	-other	Not Made
Magnesium oxide		
402-19-30	Magnesium oxide	Made
	-less than 80% pure	Made*
	-other	Not Made*
Surface-active agents		
429-79-20	Surfactants, sulphate base, industrial	Made
429-79-23	Surfactants, olefin sulphonate base, industrial	Made
429-79-25	Surfactants, sulphonate base, industrial	Made
429-79-29	Surfactants, anionic, nes, industrial	Made
429-79-30	Surfactants, ethoxylated alcohols, industrial	Made
429-79-31	Surfactants, phenol base, industrial	Made
429-79-41	Surfactants, amide base, industrial	Made
429-79-43	Surfactants, amine base, industrial	Made
429-79-44	Surfactants, fatty acid ester base, industrial	Made
429-79-45	Surfactants, sorbitan derivatives, industrial	Made
429-79-49	Surfactants, non-ionic, nes, industrial	Made
429-79-55	Surfactants, cationic, industrial	Made
429-79-65	Surfactants, ampholytic, industrial	Made
429-79-89	Surfactants, compounded, nes, industrial	Made
Synthetic waxes		
429-99-80	Wax, synthetic	
	- ethylene-bis-stearamide	Made*
	- polyethylene glycol with over 15,000 molecular weight	Not Made*
	- other	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

On the basis of observations made by Monsanto Canada Inc., c.c. 403-84-22 ("ferric sulphate") has been deleted from the above listing as being not properly classifiable under tariff item 86400-1; ferrous sulphate heptahydrate is specifically named in the item but its made-in-Canada status is not known. Also in the light of observations advanced by the aforementioned company, the "not made" status previously attaching to c.c. 429-99-80 ("wax, synthetic") has been retained only in regard to polyethylene glycol with over 15,000 molecular weight. The status of ethylene-bis-stearamide, also separately identified under this commodity class, is provisionally listed as "made", although Borg-Warner Chemicals, Borg-Warner (Canada) Limited, in a post-hearing written communication, indicates that it has been unsuccessful in obtaining domestically-manufactured supplies of this product suitable for its

own manufacturing requirements. With respect to alkyl thiols, Monsanto refers to tertiary dodecyl mercaptan (presumably encompassed by c.c. 412-20-23) as "the specific product involved", which would seem to exclude other mercaptans falling under c.c. 412-20-90. Commodity class 411-49-19 ("acyclic amino-alcohols and derivatives nes") has been added to the above listing, it having been determined that this is the most likely class under which N, N-bis (2-hydroxyethyl) alkyl amines would enter. However, commodity classes 412-20-23, 412-20-90 and 411-49-19 (referred to, above) apply only to separate chemically-defined compounds, and there may be other forms of alkyl thiols or alkyl amines which should be added to the list. Finally, it should be noted that the provisional made-in-Canada status of magnesium oxide (c.c. 402-19-30) has been altered to agree with that shown under tariff item 21950-1 (supra).

Tariff Proposals

Borg-Warner Chemicals, which manufactures ABS resins at its production facility in Cobourg, Ont., requests the adoption of one of the following tariff arrangements:

- (i) "separate tariff items specific to materials used in the production of ABS resins where this can be done without destroying essential confidential information, and where it is practical to do so having regard to the specificity required";
- (ii) "a basket type item for materials used in the production of ABS resins when not available from production in Canada should it be impractical to use the first alternative"; or - added subsequently,
- (iii) retention of the existing item, at least for those materials where it is not appropriate to provide specific listings of "made" or "not made" products - for example, in the case of inorganic pigments.

Monsanto Chemicals Inc., of Mississauga, Ont., a producer of ABS resins, proposes:

- (i) most of the goods provisionally identified as "not made" - viz: alkyl thiols, N,N-bis (2-hydroxyethyl) alkyl amines, high molecular weight polyethylene glycol, and inorganic pigments other than those determined through consultation with manufacturers to be made in Canada - to be listed in a modified version of existing item 86400-1;
- (ii) antimony oxide and magnesium oxide (provisionally designated as "not made" and "made" respectively) to be omitted from the aforementioned item and allowed to revert to existing alternative tariff provisions with bound duty-free rates.

M & T Chemicals Ltd. of Hamilton, Ont., which distributes antimony oxide made by an associated company in the United States, proposes:

(i) continuation of duty-free entry of antimony oxide under tariff item 86400-1 and - more especially - under item 92828-2 [which is presently subject to a temporary reduction-in-duty order and has a bound M.F.N. rate of Free, effective January 1, 1987].

Staff Appraisal

1. No direct representations, either written or verbal, have been received from Canadian manufacturers of the specific chemicals or product groups named in tariff item 86400-1.

2. Information is required regarding the made-in-Canada status of heptahydrate ferrous sulphate and relevant synthetic waxes (if any) other than ethylene-bis-stearamide and high molecular weight polyethylene glycol.

3. Is there any production of polyethylene glycol in Canada? If so, what is the maximum molecular weight of the domestic product?

4. Is it possible to distinguish between kinds of ethylene-bis-stearamide made in Canada and kinds not so made? Is it purely a matter of end use?

5. Are there any other alkyl thiols of relevance to this item apart from tertiary dodecyl mercaptan? If so, what are they?

6. From information received, it would appear that inorganic pigments fall into five main groupings - i.e. oxides, chromates, molybdates, cadmiums, and miscellaneous/others. If an eo nomine treatment of these goods is to be adopted, further information delineating those pigments made or not made in Canada will be required. Some concern has been expressed that too precise a delineation may reveal confidential information - if so, differentiation on the basis of a product group (e.g. molybdates) or sub-group may suffice.

7. All of the surface-active agents used in the manufacture of ABS resins or ABS moulding compositions are apparently made in Canada.

8. It would appear that magnesium oxide more than 94 per cent pure and antimony oxide could be dropped from the item. These two chemicals are afforded duty-free entry, without regard to end use, elsewhere in the Customs Tariff. What purity of magnesium oxide is required for use in the manufacture of ABS resins or ABS moulding compositions?

9. In light of the above, the most appropriate tariff arrangement would seem to be an eo nomine listing of "not made" goods (apart from antimony oxide and magnesium oxide more than 94 per cent pure) in a modified version of existing item 86400-1, without the clause "of a kind not produced in Canada", and allowing "made" goods to fall elsewhere in the Customs Tariff. It should be further noted that for goods falling into commodity classes commencing with the three digits 402, 403, 411 and 412, when imported for the end use specified in this item, free entry is also, or could be, made available under the Chemicals and Plastics Tariff Reduction Order, based on section 12 of the Customs Tariff.

TARIFF ITEM 92944-2

Existing Tariff Provisions

Antibiotics, crude, and antibiotic intermediates, structurally based on 6 amino-penicillanic acid, not further processed than extracted from their primary fermentation liquors, in crystalline form, of a kind not produced in Canada, for use in the manufacture of antibiotics

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, currently scheduled to expire on June 30, 1983, created under the authority of section 273 of the Customs Act. Its coverage is described by its wording.

While this item is not bound under the GATT, the goods would be subject to the binding applicable to its parent item 92944-1. It will be noted that in order to qualify under this item, goods are to be "of a kind not produced in Canada", rather than "of a class or kind not produced". Revenue Canada has held that to be of the same "kind", chemical products must be virtually identical in their chemical composition.

In the absence of tariff item, or when of a kind produced in Canada, the relevant goods would be classified under the parent item 92944-1 ("antibiotics, other than the following"), in relation to which the M.F.N. bound rate is 9.2 p.c.

Imports

The average annual value of imports during the period 1978-80 was \$604,000. In 1981, the value of imports totalled only \$342,000.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1, Appendix B, contains made-in-Canada rulings for chemicals. The relevance of these rulings to this tariff item has not been established.

(b) Commodity Classes

As reported in Table 4, Background No. 8, only one relevant commodity class was identified, i.e. 413-69-10 ("antibiotics nes, in bulk"). This class was - and still remains - of uncertain made-in-Canada status.

Tariff Proposals

No tariff proposals have been received in respect of item 92944-2.

Staff Appraisal

1. Unless information is forthcoming concerning the made-in-Canada status of the goods at issue, it will be necessary to categorize such goods for duty purposes on the basis of whatever data are at present available.

2. However, the apparent lack of interest in tariff item 92944-2, as well as the relatively low value of imports thereunder, suggests that this item might be eliminated from the Customs Tariff.

TARIFF ITEM 93819-14

Existing Tariff Provisions

Goods can only be classified under this item when they meet the description of the item (which requires, inter alia, that they be otherwise classifiable under item 93819-1) and also that of heading 93819 of Group XII. The provisions of the heading and of items 93819-1 and 93819-14 are as follows.

93819 - Chemical products and preparations of the chemical or allied industries (not including those consisting of mixtures of natural products other than compounded extenders for paints), n.o.p.; residual products of the chemical or allied industries, n.o.p.; not including soap, nor pharmaceutical, flavouring, perfumery, cosmetic or toilet preparations:

93819-1 Other than the following

1/1/83	10 p.c.	13.8 p.c.	25 p.c.	9 p.c.	12.5 p.c.
1/1/84		13.4 p.c.		8.5 p.c.	
1/1/87		12.5 p.c.		8 p.c.*	

* Assuming that the GPT is still in effect, with rates calculated as at present.

93819-14 Materials, of a class or kind not made in Canada, which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufactures

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

Prior to the MTN, item 93819-14 was a temporary tariff item created under the authority of section 273 of the Customs Act. It has since been transformed into a statutory item, with free entry under the M.F.N. Tariff bound under GATT.

Goods excluded from item 93819-14 because they are made in Canada are classifiable, as indicated by the item, in item 93819-1, which has a M.F.N. rate of 12.5 p.c., bound in the MTN.

There are, however, a number of other tariff items relevant to catalysts. The reader is directed to the staff appraisals for tariff items 85800-1 and 86000-1, and to item 93819-5, which is quoted therein. Tariff items 86000-1 and 93819-5, which have the same rates of duty as those applicable under tariff item 93819-14, would take precedence over this latter item.

Imports

Average annual imports under this tariff item for the period 1978-80 were valued at \$16.7 million, rising from less than \$10 million in 1978 and 1979 to \$31.6 million in 1980. In 1981, imports were valued at \$24.2 million.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Apart from the rulings relating to petroleum catalysts cited in the appraisal of tariff item 86000-1, the following is the only relevant ruling published in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1, Appendix B: Made in Canada ... Nickel based catalysts in a fatty ester carrier for use in the hydrogenation of vegetable, animal and marine oils and other fatty materials.

(b) Commodity Classes

The following listing is based on the information contained in Table 4, Background No. 8 and sets out the provisional made-in-Canada status of goods falling under tariff item 93819-14.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Materials which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufactures	
429-22-20 Catalysts, aluminum, compounded	Uncertain*
429-22-30 Catalysts, nickel, compounded	
-wet reduced nickel catalyst	Made
-other	Not Made
429-22-40 Catalysts, platinum, compounded	Not Made
429-22-50 Catalysts, vanadium, compounded	Not Made
429-22-72 Catalysts, clays, compounded	Not Made
429-22-73 Catalysts, phosphoric, compounded	Not Made
429-22-75 Catalysts, molybdenum-cobalt, compounded	
-hydrotreating	Made
-other	Uncertain*
429-22-89 Compound catalysts, nes	
-aluminum chloride and magnesium chloride mixture in aqueous solution	Not Made*
-ammonium chloride and tricalcium phosphate mixture	Not Made*
-ammonium chloride in an inert carrier	Not Made*
-ammonium silica fluoride	Not Made*
-aromatic di-sulphonic acid in isobutanol	Not Made*
-aromatic sulphonic acid in isopropanol	Not Made*
-dimethyl acid pyrophosphite in butanol	Not Made*
-para-toluene sulphonic acid in isopropanol	Not Made*
-zinc palmitate emulsion	Not Made*
-other	Uncertain*
429-72-20 Hardeners, plastic compounding, formulated	Not Made*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

The specific commodities listed under c.c. 429-22-89 ("compound catalysts, nes") are taken from a list supplied by Cyanamid Canada Inc. Comment is invited on the correctness of their classification under this commodity class and/or tariff item. It is assumed that catalysts containing ruthenium (such as are imported by Monsanto Canada Inc.) would fall under c.c. 429-22-40 ("catalysts, platinum, compounded"). Commodity class 429-22-79 ("catalysts, petroleum refining, nes") has been eliminated because of its relevance to tariff item 86000-1, which takes precedence over this tariff item. The first six commodity classes listed in Table 3, Background No. 8 (including c.c. 413-30-89, "enzymes, in bulk, nes" - see infra), have also been eliminated as, by definition, they apply to separate chemically-defined compounds, which are excluded from heading 93819. Imports cleared under tariff item 93819-14 and coded to these classes must represent an error either in tariff classification or in commodity coding. Observations are also invited regarding the appropriateness of c.c. 429-72-20 ("hardeners, plastic compounding, formulated").

Tariff Proposals

Shell Canada Limited of Toronto, Ont., proposes:

(i) tariff item 86000-1 be eliminated and its provisions be combined with those of tariff item 93819-14;

(ii) a new item 93819-14 be established, with the wording:

Materials for use only as catalysts in Canadian manufactures with the exception of the following:

1. Fluid bed silica-alumina cracking catalyst for use in the refining of petroleum, composed of:-
 - (1) Synthetic components (Silica Alumina),
 - (2) Clay and synthetic components (Silica Alumina).
2. Catalysts consisting of two or more of cobalt, molybdenum and nickel oxides on an aluminum oxide base or on an aluminum oxide base in a mixture with silica for use in desulphurization, denitrogenation and polyaromatic saturation of petroleum feed stocks, in hydrotreating service only.
3. Nickel based catalysts in a fatty ester carrier for use in the hydrogenation of vegetable, animal and marine oils and other fatty materials.

(iii) goods under the proposed item be free of duty, while those listed as exceptions be dutiable, as at present.

Imperial Oil Limited of Toronto, Ont., favours:

(i) retention of a modified version of tariff item 93819-14 (in this connection (a) objecting to the Shell proposal, above, on the ground that any item falling under heading 93819 would, by definition, be limited to compounded or mixed materials, while existing item 86000-1 can apply to separate chemically-defined compounds or to single natural materials, when they are usable as catalysts in the refining of petroleum, and (b) objecting to the apparently restrictive nature of the Uniroyal proposal, below).

- (ii) specifying only "made" goods because of difficulties in establishing a comprehensive listing of "not made" products;
- (iii) replacing tariff item 93819-14 by the following:

Materials which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufactures

Free	Free	25 p.c.
------	------	---------

with the exception of the following: (catalysts identified by other industries as being made in Canada).

Rates of duty as per tariff item 93819-1 [i.e. 1987 M.F.N. rate of 12.5 p.c.]

Gulf Canada Limited of Toronto, Ont., recommends:

- (i) an item identical to that proposed by Imperial Oil Limited (see above);
- (ii) the use of "more defined" commodity descriptions so that "not made" catalysts continue to enjoy duty-free treatment.

The Ontario Petroleum Association favours:

- (i) naming the "made" goods, in view of the difficulties of listing or adequately describing the "not made" catalysts currently in use;
- (ii) an item identical to that proposed by Imperial Oil and Gulf (two of its members).

Monsanto Canada Inc. of Mississauga, Ont., which uses a number of catalysts in its manufacturing processes, advocates:

- (i) retention of a modified version of tariff item 93819-14;
- (ii) an eo nomine listing of "made" goods (such a listing perhaps containing "in addition to the nickel and molybdenum and cobalt catalysts, products or compounds containing enzymes listed as eo nomine under 92940");
- (iii) replacing the wording of existing tariff item 93819-14 by the following:

Materials which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufacture, with the exception of the following ...

May & Baker Canada Inc. of Mississauga, Ont., an associate of the Institute Francais de pétrole, indicated in a verbal statement, its support of the position taken by Imperial Oil.

Uniroyal Chemical, Division of Uniroyal Ltd., of Elmira, Ont., which imports catalysts under tariff item 93819-14 for use in the manufacture of certain chemical products, proposes:

- (i) retention of free entry for "not made" catalysts imported by the company;
- (ii) rewording item 93819-14 to read:

Preparations containing platinum, palladium and/or their metal salts, for use only as catalysts in Canadian chemical processing.

(However, at the public hearing it was indicated that this nomenclature identifies the "area of interest to Uniroyal", and that the company does not object to free entry for other "not made" catalysts);

(ii) as an alternative to the above nomenclature, the retention of item 93819-14 without the words "of a class or kind not made in Canada", and with the comparatively few Canadian-made catalysts being separately specified elsewhere in the Customs Tariff.

Emery Industries Limited of Toronto, Ont., which manufactures fatty acids and related specialty chemicals, asks for:

(i) a duty-free tariff provision worded:

Nickel based catalyst whether in powder form or in a fatty ester carrier for use in the hydrogenation of inedible organics, other than triglycerides.

(ii) alternatively, free entry for "catalysts, nickel compounded, other than wet reduced nickel catalysts".

The Canadian Textiles Institute, whose members use catalysts in the production of man-made fibres and in the dyeing and finishing of yarns and fabrics, specifies an interest in the maintenance of free entry for "not made" catalysts required for textile applications, while noting that, because of technical complexity and the reluctance of manufacturers and users to divulge the exact composition of products, it is difficult to compile a precise listing of relevant goods.

Van Waters & Rogers Ltd. of Weston, Ont., which imports under this tariff item a number of catalysts of a bio-chemical nature, principally containing enzymes, seeks:

(i) retention of duty-free status for catalysts (especially enzymes) of a kind not made in Canada - in this regard, distinguishing between industrial enzymes, such as trypsin, which are not domestically manufactured and [presumably in an admixture of some kind] are admissible under Chapter 939, and enzymes for pharmaceutical or medical use, which may, in some instances, be produced in Canada [and are classifiable under Chapter 929];

(ii) as a possible alternative to the present tariff arrangement, a duty-free provision such as the following:

Industrial chemical preparations acting as bio-chemical catalysts and used in Canadian manufactures, other than the following:

-(listing of "made" goods).

Cyanamid Canada Inc. of Willowdale, Ont., which manufactures hydro-treating catalysts, proposes:

(i) retention of a modified version of tariff item 93819-14 (in this connection, ruling out a combination of this item with item 86000-1, as proposed by Shell, above, insofar as "there are some catalysts used in the refinery trade which are not classifiable under 93819 because they are single chemicals and would fall either under the 928 or 929 series");

(ii) an eo nomine listing of "not made" goods, "especially since it would allow for other materials to be added, when necessary at subsequent times";

(iii) alternatively - and, presumably, as a second choice - an eo nomine listing of "made" goods;

(iv) replacing the wording of existing tariff item 93819-14 by the following:

The following materials, which otherwise would be classified under tariff item 93819-1, for use only as catalysts in Canadian manufacture:

- followed by an alphabetical eo nomine list of chemicals.

Staff Appraisal

1. Unless information is forthcoming concerning the made-in-Canada status of "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of whatever data are presently available.

2. There still appears to be some confusion and uncertainty regarding the appropriate tariff treatment of enzymes.

3. The question of merging this tariff item with tariff item 86000-1 is discussed in detail in the staff appraisal of evidence under the latter item (supra), as is the redundancy of non-referred tariff item 93819-5.

4. The principal proposal set forth, above, under the submissions of Imperial Oil et al, would be the most feasible arrangement in the light of the very narrow range of catalysts apparently made in Canada and the difficulties in establishing a comprehensive listing of "not made" products.

5. The proposal would lock in free entry for all compounded (mixed) catalysts not designated as "made in Canada", even if domestic production were to be undertaken at some future date.

6. As the tariff item is no longer dependent on section 273 of the Customs Act, the description of goods could probably be simplified to: "Catalysts which otherwise would be classified under tariff item 93819-1".

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE II

STAFF APPRAISAL
ELECTRICAL GOODS, METAL GOODS
AND MISCELLANEOUS GOODS II

SEPTEMBER, 1983

TABLE OF CONTENTS

	<u>Page</u>
TARIFF ITEM 30620-1	
Existing Tariff Provisions	33
Imports	33
Provisional Made-in-Canada Status of Goods	33
Tariff Proposals	34
Staff Appraisal	34
 TARIFF ITEM 31500-1 EX.	
Existing Tariff Provisions	35
Imports	35
Provisional Made-in-Canada Status of Goods	35
Tariff Proposals	36
Staff Appraisal	36
 TARIFF ITEM 32645-1	
Existing Tariff Provisions	37
Imports	37
Provisional Made-in-Canada Status of Goods	37
Tariff Proposals	38
Staff Appraisal	38
 TARIFF ITEM 32669-1	
Existing Tariff Provisions	39
Imports	39
Provisional Made-in-Canada Status of Goods	39
Tariff Proposals	40
Staff Appraisal	40
 SUPPLEMENTARY NOTE ON ILLUMINATING GLASSWARE	41
 TARIFF ITEM 35235-1	
Existing Tariff Provisions	47
Imports	47
Provisional Made-in-Canada Status of Goods	47
Tariff Proposals	48
Staff Appraisal	48

TABLE OF CONTENTS (CONT.)

	<u>Page</u>
TARIFF ITEM 39225-1	
Existing Tariff Provisions	49
Imports	49
Provisional Made-in-Canada Status of Goods	49
Tariff Proposals	50
Staff Appraisal	50
TARIFF ITEM 40700-1	
Existing Tariff Provisions	51
Imports	51
Provisional Made-in-Canada Status of Goods	51
Tariff Proposals	52
Staff Appraisal	52
TARIFF ITEM 42726-1	
Existing Tariff Provisions	53
Imports	53
Provisional Made-in-Canada Status of Goods	53
Tariff Proposals	56
Staff Appraisal	60
TARIFF ITEMS 44205-1 AND 97056-1	
Existing Tariff Provisions	61
Imports	65
Provisional Made-in-Canada Status of Goods	65
Tariff Proposals	73
Staff Appraisal	76
TARIFF ITEM 44305-1	
Existing Tariff Provisions	79
Imports	79
Provisional Made-in-Canada Status of Goods	79
Tariff Proposals	80
Staff Appraisal	80
TARIFF ITEM 44569-1	
Existing Tariff Provisions	81
Imports	81
Provisional Made-in-Canada Status of Goods	81
Tariff Proposals	82
Staff Appraisal	82

TABLE OF CONTENTS (CONCL.)

	<u>Page</u>
TARIFF ITEM 44643-1	
Existing Tariff Provisions	83
Imports	83
Provisional Made-in-Canada Status of Goods	83
Tariff Proposals	84
Staff Appraisal	84
 TARIFF ITEM 46400-1	
Existing Tariff Provisions	85
Imports	85
Provisional Made-in-Canada Status of Goods	85
Tariff Proposals	86
Staff Appraisal	86
 TARIFF ITEM 47605-1 EX.	
Existing Tariff Provisions	87
Imports	87
Provisional Made-in-Canada Status of Goods	87
Tariff Proposals	88
Staff Appraisal	88
 TARIFF ITEM 47615-1	
Existing Tariff Provisions	89
Imports	89
Provisional Made-in-Canada Status of Goods	89
Tariff Proposals	90
Staff Appraisal	91
 TARIFF ITEM 68200-1 EX.	
Existing Tariff Provisions	93
Imports	93
Provisional Made-in-Canada Status of Goods	93
Tariff Proposals	94
Staff Appraisal	94

TARIFF ITEM 30620-1

Existing Tariff Provisions

Ornamental or decorative marble (not including chips),
unicolour or variegated, of colours and/or texture not
produced in Canada, rough, hammered, sawn, sand rubbed,
chiselled or polished, with or without design thereon,
when specially imported and used for interior work in
churches

Free Free 35 p.c. Free Free

The coverage of the item is clear from its wording. It will be noted that in this case the made-in-Canada status of the pertinent goods depends upon their "colours and/or texture". To be excluded from the item, a product would have to be of both a colour and texture produced in Canada, or, of course, fail to meet the end-use qualification. Free entry under the M.F.N. Tariff is bound under GATT.

When of a colour and texture produced in Canada, or in the absence of this item, the goods might fall under a number of tariff items depending upon the degree of manufacture:

<u>Goods</u>	<u>Tariff Item</u>	<u>MFN Bound Rate</u>
Marble, rough, not hammered or chiselled	30505-1	Free
Marble, sawn or sand rubbed, not polished	30515-1	4 p.c.
Marble, n.o.p.	30700-1	9 p.c.
Manufactures of marble, n.o.p.	30705-1	9 p.c.

Imports

Between 1974 and 1981, imports under tariff item 30620-1 were recorded in only two years. In 1978 imports were valued at \$10,000, while in 1980 they amounted to a mere \$683.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings relating to marble in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix F.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
	Ornamental or decorative marble (not including chips), unicolour or variegated, rough, hammered, sawn, sand rubbed, chiselled or polished, with or without design thereon, when specially imported and used for interior work in churches	
276-20-10	Marble, rough	Not Made
471-08-10	Marble, shaped or dressed	Made
740-39-20	Furniture, church	Uncertain*
961-89-19	Marble end products nes	Uncertain*

* Indicates a class regarding which further information is required.

Tariff Proposals

No representations have been made with respect to tariff item 30620-1.

Staff Appraisal

1. No information has been obtained which would permit the differentiation of the pertinent products into "made" and "not made" categories on the basis of the criteria indicated in the nomenclature of the tariff item.

2. Of the four commodity classes indicated above, only two - viz: c.c. 740-39-20 ("furniture, church") and c.c. 961-89-19 ("marble end products nes") - were applied to imports of goods under item 30620-1 between 1974 and 1981, and both of these classes appear to be of doubtful relevance.

3. In view of the complete absence of imports under this item in most recent years, and the probable misclassification of such goods as have been entered thereunder, there would seem to be little point in making special provision for the goods at issue. Deletion of the item would appear to provide the most appropriate tariff solution.

TARIFF ITEM 31500-1 EX.

Existing Tariff Provisions

Carbons or carbon electrodes over three inches in circumference or outside measurement and not exceeding thirty-five inches in circumference or outside measurement; carbons of a class or kind not produced in Canada, when imported for use in the manufacture of dry batteries and dry cells

Free Free Free Free Free

Free entry under the M.F.N. Tariff is bound under GATT. In Reference No. 157 the Board is concerned only with the underlined portion of the item, covering carbons of a class or kind not produced in Canada for use in the manufacture of dry batteries and dry cells.

When ruled to be of a class or kind made in Canada and excluded from the latter part of this item, carbons for use in the manufacture of dry batteries or dry cells, if held to be complete parts of electric batteries, would fall under item 44512-1, or item 44526-1, each with a M.F.N. bound rate of 10.2 p.c. Otherwise they would, if of the appropriate dimensions, fall into the first part of referred item 31500-1. Carbons exceeding 35 inches in circumference or outside measurement would fall into item 31505-1, with a M.F.N. bound rate of 15 p.c., while any other contact carbons would be admissible under tariff item 31600-1, with a M.F.N. bound rate of 11.3 p.c.

Imports

The annual value of imports under tariff item 31500-1 as a whole increased from \$3.5 million in 1979 to \$4.7 million in 1980, subsequently falling to \$4.3 million in 1981. From commodity class data it appears that goods entering under the referred part of this item accounted for at least \$1.1 million, or 26 per cent, of the 1981 total.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings relating to carbons in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix D.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Carbons when imported for use in the manufacture of dry batteries and dry cells	
477-16-10 Battery carbons	Not Made*

* Indicates a change from Table 4.

In the Background paper, a "made" designation was attached to battery carbons of the following specifications: 4 1/2" diameter rod, 6" long; and 2" x 4 1/2" x 6" parallelepiped. However, Union Carbide Canada Limited has indicated that, in its opinion, no battery carbons are produced in Canada. The made-in-Canada status of the goods has, accordingly, been changed.

Tariff Proposals

Union Carbide Canada Limited, of Toronto, Ont., requests a continuation of the existing duty-free provision.

Staff Appraisal

1. Assuming that there is no domestic production of the pertinent goods, the simplest tariff solution would be to retain the existing item, with the clause "of a class or kind not produced in Canada" deleted.

TARIFF ITEM 32645-1

Existing Tariff Provisions

Moulded illuminating shades, reflectors and refractors of glass, of a class or kind not made in Canada, designed for use with light fixtures or with portable lamps

1/1/83	Free	7.5 p.c.	32.5 p.c.	Free	Free
1/1/84		5.6 p.c.			
1/1/87		Free			

The coverage of this item is clear from its wording. The shades, reflectors and refractors must be of moulded glass and of a class or kind not made in Canada. Although they are required to be "designed" for a certain purpose, they need not be so used, so this is not considered to be an end-use item. Free entry under the M.F.N. Tariff was bound in the MTN.

The goods covered by this tariff item, if it were deleted, or if they were ruled "made", would, in the absence of any other more specific item, fall under item 32607-1 as "illuminating glassware, n.o.p.", with a M.F.N. bound rate of 11.3 p.c.

Imports

The annual value of goods imported under tariff item 32645-1 peaked at \$8.0 million in 1976, subsequently dropping to just under \$3.0 million in 1980 and 1981.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings relating to these goods in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix D.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
	Moulded illuminating shades, reflectors and refractors of glass, designed for use with light fixtures or with portable lamps	
681-91-30	Globes, electric lighting fixture & lamp	Not Made
681-91-50	Illuminators, electric lighting fixture & lamp, glass	Not Made
681-93-30	Shades, electric lighting fixture & lamp	Made

Tariff Proposals

No submissions have been received with respect to tariff item 32645-1.

Staff Appraisal

1. An eo nomine listing of both "made" and "not made" goods would seem appropriate.

2. As an alternative, moulded illuminating shades, as being "made", could be deleted from the item and allowed to fall into item 32607-1. Item 32645-1 would then provide for: "Reflectors and refractors of glass, designed for use with light fixtures or with portable lamps".

3. Since the public hearing, the Minister of State, Department of Finance, has forwarded to the Board copies of correspondence he has exchanged with Ejoyteurs Canada Ltd., Chateauguay, Quebec, regarding tariffs on decorated lighting glass, for which the company suggests a rate of 15 p.c. This matter is further discussed in a supplementary note on illuminating glassware, which follows the staff appraisal of tariff item 32669-1.

TARIFF ITEM 32669-1

Existing Tariff Provisions

Reflectors and refractors of glass designed for use with lighting fixtures, not further manufactured than moulded, when of a class or kind not made in Canada and imported to be silvered, aluminized, acid-etched or combined with a spun aluminum cover in Canada

Free Free 10 p.c. Free Free

This was originally a temporary tariff item, first created, and then revised, in 1969, under the authority of section 273 of the Customs Act. It was made statutory with effect from June 3, 1980. Free entry under the M.F.N. Tariff was bound in the MTN. The coverage of the item, including the end use of the relevant products, is clear from its wording. The reflectors and refractors must be of moulded glass and of a class or kind not made in Canada. They must be designed for use with lighting fixtures, although not necessarily so used, and they must be imported for further processing in one of the manners described in the item. In some senses, the item is a more restrictive version of referred item 32645-1 (see supra), to which goods covered by item 32669-1 would revert if the latter item were to be deleted.

When ruled "made", or in the absence of this or any more specific provision such as that contained in item 32645-1, the goods covered by item 32669-1 would be classified as "illuminating glassware, n.o.p." under tariff item 32607-1, with a M.F.N. bound rate of 11.3 p.c.

Imports

The average annual value of goods imported under tariff item 32669-1 between 1975 and 1981 remained within the range \$200,000-\$300,000, this representing a drop from earlier years. In 1981, imports were valued at \$265,000.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings relating to these goods in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix D.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Reflectors and refractors of glass designed for use with lighting fixtures, not further manufactured than moulded, when imported to be silvered, aluminized, acid-etched or combined with a spun aluminum cover in Canada	
473-74-10 Glass blanks for reflectors or refractors	Not Made

Tariff Proposals

No representations have been made with respect to tariff item 32669-1.

Staff Appraisal

1. The nomenclature of tariff item 32669-1 could be retained without the qualifying clause "when of a class or kind not made in Canada".

2. However, in view of the low value of imports under this item, and the Free binding applying to alternative item 32645-1, effective 1987, deletion of tariff item 32669-1 would appear to provide the most appropriate tariff solution.

3. Since the public hearing, the Minister of State, Department of Finance, has forwarded to the Board copies of correspondence he has exchanged with Ejoyteurs Canada Ltd., Chateauguay, Quebec, regarding tariffs on decorated lighting glass, for which the company suggests a rate of 15 p.c. This matter is further discussed in the following supplementary note on illuminating glassware.

SUPPLEMENTARY NOTE ON ILLUMINATING GLASSWARE

At the public hearing on Phase II, Group 3 of Reference No. 157, no representations were received respecting those tariff items (32645-1 and 32669-1) relating to illuminating glassware specifically referred to the Board. Subsequently, Ejoyteurs Canada Ltd. wrote to the Minister of Finance requesting the elimination of temporary tariff item 32646-1, (not referred to the Board) and the imposition, presumably under item 32645-1, without a "not made" qualification, of a 15 p.c. duty on decorated lighting glass used in the lamp and lighting fixture industry. In his reply, the Minister of State, Department of Finance, pointed out that tariff item 32645-1 is included in Reference No. 157 and that the rate of duty is being reduced to Free under the MTN.

Under date of May 9, 1983, the Minister forwarded copies of the aforementioned correspondence to the Chairman of the Tariff Board and indicated that "it would be appreciated if the Board could look into" Ejoyteurs' concerns "in the context of its study" of tariff item 32645-1.

It is understood that illuminating glassware may be produced from blown glass, moulded glass, or blow-moulded glass (i.e. glass blown, rather than poured, into a mould). Tariff items referring to "moulded" glass have been held, where appropriate, to include both moulded and blow-moulded glass, while those referring to blown glass have been held to apply, where appropriate, both to blown and to blow-moulded glass.

The following tariff items are relevant to illuminating glassware and goods used to produce the same:

Tariff item 32607-1

Illuminating glassware, n.o.p.

1/1/83	10 p.c.	15.7 p.c.	32.5 p.c.	10 p.c.	11.3 p.c.
1/1/87		11.3 p.c.(a)		7.5 p.c.(b)	

Tariff item 32645-1

(Referred item - see staff appraisal, above)

Moulded illuminating shades, reflectors and refractors of glass, of a class or kind not made in Canada, designed for use with lighting fixtures or portable lamps

1/1/83	Free	7.5 p.c.	32.5 p.c.	Free	Free
1/1/87		Free(a)			

Temporary tariff items 32646-1 and 32647-1
(Scheduled expiry date: June 30, 1984)

Illuminating shades, reflectors, refractors and shapes, of blown glass, for use in the manufacture of the goods enumerated in tariff item 44500-1:

32646-1	Other than the following				
	Free	7.5 p.c.	30 p.c.	Free	7.5 p.c.
32647-1	Not further processed by the application of any material to the surface of the glass after it has been blown to shape				
	Free	Free	30 p.c.	Free	Free

Tariff item 32660-1

Articles of glass, not including plate, sheet, machine-made tumblers nor containers for the bottling or packaging of products, when for use in the manufacture of cut or decorated glassware, under such regulations as the Minister may prescribe

Free	Free(a)	32.5 p.c.	Free	Free
------	---------	-----------	------	------

Tariff item 32669-1

(Referred item - see staff appraisal, above)

Reflectors and refractors of glass designed for use with lighting fixtures, not further manufactured than moulded, when of a class or kind not made in Canada and imported to be silvered, aluminized, acid-etched or combined with a spun aluminum cover in Canada

Free	Free(a)	10 p.c.	Free	Free
------	---------	---------	------	------

Tariff item 44500-1

Electric light fixtures and appliances, n.o.p. and complete parts thereof

1/1/83	15.7 p.c.	15.7 p.c.	30 p.c.	10 p.c.	15.7 p.c.
1/1/87	11.3 p.c.	11.3 p.c.(a)		7.5 p.c.(b)	11.3 p.c.

Tariff item 44503-1

Parts of electric light fixture or appliances which otherwise would be classified under tariff item 44500-1, but not including electric cords, plugs, sockets, switches, connectors, ballasts or assemblies incorporating any of the foregoing

1/1/83	15 p.c.	15 p.c.	30 p.c.	10 p.c.	15 p.c.
1/1/87	11.3 p.c.	11.3 p.c.(a)		7.5 p.c.(b)	11.3 p.c.

(a) Bound rates in the MTN.

(b) Subject to Parliamentary approval of Budget Resolutions dated April 19, 1983.

It will be noted that the temporary tariff items are not themselves bound under the MTN. However, goods under item 32647-1 would, in the absence that item, revert either to item 32660-1 or 32669-1, both bound at Free; and goods under item 32646-1 would fall under either item 32645-1 (blow-moulded glass of a class or kind not made in Canada), with a bound rate of Free, or under one of the items applicable to finished goods, namely 32607-1 or 44500-1, both of which have a bound rate of 11.3 p.c.

It would appear that these items should be applied as follows, but this listing should not be taken to be definitive:

Illuminating Glassware

	<u>Tariff Item</u>	<u>M.F.N. Rate</u> <u>(1983)</u>
<u>Blown glass (not blow-moulded)</u>		
<u>Undecorated:</u>		
For decoration in Canada:		
Illuminating shades, reflectors refractors and shapes for the manufacture of electric lights fixtures and appliances or complete parts thereof	32647-1	Free
Other articles	36660-1	Free
For use as illuminating glassware:		
Complete parts of electric light fixture or appliance	44503-1	15.0 p.c.(a)
Other	32607-1	15.7 p.c.(a)
<u>Decorated:</u>		
Illuminating shades, reflectors refractors and shapes for the manufacture of electric lights fixtures and appliances or complete parts thereof	32646-1	7.5 p.c.
Complete parts of electric light fixture or appliance	44503-1	15.0 p.c.(a)
Other	32607-1	15.7 p.c.(a)
<u>Blow-moulded glass</u>		
<u>Undecorated:</u>		
For decoration in Canada:		
Illuminating shades, reflectors refractors and shapes for use in the manufacture of electric lights fixtures and appliances and complete parts thereof	32647-1	Free
Reflectors and refractors designed for use with lighting fixtures	32669-1	Free
Other articles	32660-1	Free

For use as illuminating glassware:

Illuminating shades, reflectors and refractors, of a class or kind not made in Canada, for use with lighting fixtures or portable lamps	32645-1	7.5 p.c.(b)
Complete parts of electric light fixture or appliance	44503-1	15.0 p.c.(a)
Other	32607-1	15.7 p.c.(a)

Decorated:

Illuminating shades, reflectors refractors and shapes for use in the manufacture of electric lighting fixtures or appliances or complete parts thereof	32646-1	7.5 p.c.
Illuminating shades, reflectors and refractors, of a class or kind not made in Canada, for use with lighting fixtures or portable lamps	32645-1	7.5 p.c.(b)
Complete parts of electric light fixture or appliance	44503-1	15.0 p.c.(a)
Other	32607-1	15.7 p.c.(a)

Moulded glass (not blown)

Undecorated:

For decoration in Canada:

Reflectors and refractors, of a class or kind not made in Canada, designed for use with lighting fixtures	32669-1	Free
Other articles	36660-1	Free

For use as illuminating glassware:

Illuminating shades, reflectors and refractors of a class or kind not made in Canada, for use with electric lighting fixtures or portable lamps	32645-1	7.5 p.c.(b)
Complete parts of electric light fixture or appliance	44503-1	15.0 p.c.(a)
Other	32607-1	15.7 p.c.(a)

Decorated:

Illuminating shades, reflectors, and refractors of a class or kind not made in Canada, for use with lighting fixtures or portable lamps	32645-1	7.5 p.c.(b)
Complete parts of electric light fixture or appliance	44503-1	15.0 p.c.(a)
Other	32607-1	15.7 p.c.(a)

(a) Reducing to 11.3 p.c. in 1987.

(b) Reducing to Free in 1987.

The complexity of the existing schedule is apparent from the foregoing. It should be noted, however, that there are virtually no imports under tariff item 32607-1 ("illuminating glassware, n.o.p.").

Prior to 1978, the M.F.N. rate under item 32645-1 was 15 p.c.; illuminating glassware, n.o.p. was under item 32606-1 at 20 p.c.; complete parts of electric lighting fixtures or appliances were under item 44500-1 at 20 p.c. At that time, the two strictly "raw materials items" were item 32660-1 (in its present form) and item 32669-1, a temporary item (made statutory in 1980), with its present form and rate.

Effective June 22, 1978, temporary item 32646-1 was created, allowing free entry for blown or blow-moulded glass, regardless of degree of manufacture or made-in-Canada status, in the form of illuminating shades, reflectors and refractors of glass, for use in the manufacture of electric light fixtures or appliances and complete parts thereof. As a result of representations from Canadian decorators of such glass, the item was sub-divided, effective July 1, 1981, to allow the application of a duty to decorated glassware.

The other tariff changes indicated above came about as a result of the MTN.

Staff Appraisal

1. The appropriate classification of relevant products is difficult to establish, with overlaps existing between various items. Free entry for different forms of undecorated glass is, or will be, provided in items 32645-1, 32647-1, 32660-1 and 32669-1, but undecorated illuminating glass ready for final use could conceivably also fall into items 32607-1 and 44500-1, with bound rates of 11.3 p.c.

2. Decorated glass could fall into items 32607-1 and 44503-1 (bound rate of 11.3 p.c.), 32646-1 (temporary rate of 7.5 p.c.) or - if "not made" - into item 32645-1 (bound rate of Free). Prior to 1983, the rate under 32645-1 (applying to "not made", moulded or blow-moulded glass) was higher than the rate under temporary item 32646-1 (relating to blown or blow-moulded glass, regardless of its made-in-Canada status); from Jan. 1, 1984, it will be lower.

3. The rate of duty of 15 p.c. proposed by Ejoyteurs Canada Ltd. with respect to decorated lighting glass used in lamp and lighting fixtures, is considerably higher than the various bound rates of Free, 7.5 p.c. and 11.3 p.c. which will apply to this product under the most relevant tariff items in 1987. In this connection, it may be recalled that, in his letter of reference

to the Board, the Minister states: "To the extent possible, the Board should not make recommendations with respect to these [referred] items which, if implemented, would result in an overall increase in the levels of protection provided for in the new GATT Schedule for the relevant product categories". In light of this injunction, some strong justification would seemingly be needed to depart from the aforementioned bound rates.

4. Comments are invited with respect to the methods of manufacture used in the production of illuminating glassware, the processes whereby such goods are decorated, the ratio of decorated to undecorated goods, and the degree to which the various operations are carried out in Canada.

5. Some simplification of the Schedules seems warranted. There may be some point in tariff distinctions based on degree of manufacture (e.g. undecorated goods, decorated goods ready for use, decorated goods requiring further manufacture). The necessity for distinctions based on methods of production, however, is less readily apparent.

TARIFF ITEM 35235-1

Existing Tariff Provisions

Centrifugally cast bronze shells or tubes not further manufactured than turned and bored longitudinally, of a size not made in Canada, for use in the manufacture of rolls for paper-making machinery

Free Free 30 p.c. Free Free

The coverage of this item is clear from its wording. It will be noted that the made-in-Canada criterion in this case is "size" and not "class or kind". Free entry under the M.F.N. Tariff rate was bound in the MTN.

When of a size made in Canada, or in the absence of this item, the relevant shells or tubes would be classified as "manufactures of brass or copper, n.o.p." under tariff item 35200-1, with a M.F.N. bound rate of 10.2 p.c.

Imports

The annual value of goods imported under tariff item 35235-1 averaged \$0.5 million during 1978-80, dropping to \$43,000 in 1981 and \$5,000 in 1982.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings relating to the relevant goods in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Centrifugally cast bronze shells or tubes not further manufactured than turned and bored longitudinally, for use in the manufacture of rolls for paper-making machinery	
452-85-40 Pipes/tubes, copper alloy, seamless	Not Made
452-85-90 Pipes/tubes, copper alloy, nes	Not Made

Tariff Proposals

No submissions have been received with respect to tariff item 35235-1.

Staff Appraisal

1. The wording of the existing tariff item could be retained, the qualification "of a size not made in Canada" being deleted.

2. Alternatively, since this tariff provision has been little used in recent years, it could be struck out and the goods allowed to fall elsewhere in the Customs Tariff.

TARIFF ITEM 39225-1

Existing Tariff Provisions

Rotor shaft forgings, rough machined, not less than 50,000 pounds in weight, of types or sizes not made in Canada, for use in the manufacture of electric motors and electric generators

Free Free 30 p.c. Free Free

This is a temporary tariff item originally created under the authority of section 273 of the Customs Act in 1975 and revised in 1977. It is currently scheduled to expire on June 30, 1983. The coverage of the item is apparent from its wording. It should be noted that the made-in-Canada criterion is "types or sizes" rather than "class or kind". While the M.F.N. rate under the item itself is not bound under GATT, the goods covered by the item would be affected by the bindings applicable to the parent items (see below).

When of types or sizes made in Canada, or if tariff item 39225-1 should be allowed to expire, the relevant forgings - when weighing 25 tons but less than 40 tons - would fall under item 39205-1, which carries a M.F.N. bound rate of 10.2 p.c., or - when weighing 40 tons or more - would be classifiable to item 39210-1, in which case a bound rate of 9.2 p.c. would be applicable.

Imports

There were no imports of goods recorded as entering under tariff item 39225-1 before 1980. Imports in that year were valued at \$354,000, subsequently dropping to \$99,000 in 1981 and to \$7,000 in 1982.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings relating to rotor shaft forgings in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the above tariff item.

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
	Rotor shaft forgings, rough machined, not less than 50,000 pounds in weight, for use in the manufacture of electric motors and electric generators	
503-19-89	Generators, electrical, ac, parts of nes	Not Made
503-79-89	Motors, electric, parts of nes	Not Made

Tariff Proposals

No submissions have been received with respect to tariff item 39225-1.

Staff Appraisal

1. With minimal imports, and no bound rate under GATT, there is no reason to prolong the life of this tariff item beyond its present expiry date. It should, therefore, be allowed to expire on June 30, 1983, as scheduled.

TARIFF ITEM 40700-1

Existing Tariff Provisions

Silent chain and finished roller chain, of iron or steel, and complete parts thereof, of a class or kind not made in Canada, n.o.p., either chain of the type which operates over or with gears or sprockets or radially grooved wheels with machine cut teeth

1/1/83	Free	12.1 p.c.	25 p.c.	Free	9.2 p.c.
1/1/84		11.4 p.c.			
1/1/87		9.2 p.c.			

This item provides for certain described types of chain of a class or kind not made in Canada as long as they are not more specifically covered in some end-use item. Complete parts of either type of chain, n.o.p., are also covered by the item as long as they themselves are of a class or kind not made in Canada. The M.F.N. rate was bound at 9.2 p.c. in the MTN.

When ruled made in Canada, or in the absence of this item, the chains and their complete parts would generally fall into tariff item 40705-1, as "chains, of iron or steel, n.o.p., and complete parts thereof", with a M.F.N. bound rate of 10.2 p.c.

Imports

The value of imports under item 40700-1 amounted to \$18.7 million in 1979, rising to \$22.1 million in 1980, and subsequently falling to \$16.9 million in 1981. Imports under the corresponding item for "made" goods (40705-1) were valued at \$13.4 million in the latter year.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no relevant published rulings in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under this tariff item.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Silent chain and finished roller chain, of iron or steel, and complete parts thereof, n.o.p., either chain of the type which operates over or with gears or sprockets or radially grooved wheels with machine cut teeth	

466-09-20	Chain, roller, power transmission & conveyor -pitch size, 2 1/2" and over -other	Made Not Made
466-09-26	Chain, roller, offset sidebar -pitch size 2 1/2" and over -other	Made Not Made
466-09-28	Chain, roller, parts of -pitch size 2 1/2" and over -other	Made Not Made
466-09-45	Chain, silent drive (inverted tooth)	Made
466-09-90	Chain, power transmission & conveyor, nes -pitch size 1 1/2" and over -other	Made Not Made

Tariff Proposals

In a joint brief, a group of five steel producers - The Algoma Steel Corporation, Limited, Atlas Steels (A Division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. advocates:

- (i) some form of eo nomine treatment, with a listing of either "made" or "not made" goods, "depending on the practicalities of individual situations";
- (ii) the provision of a "safety net" of some kind - perhaps in the form of duty remission - to provide for possible future eventualities where dutiable goods must be imported because they are not made or are not available in Canada;
- (iii) maintenance of the preferential duty differential with respect to "not made" goods.

Staff Appraisal

1. The circumstances pertaining to this item do not appear to be sufficiently exceptional as to warrant the introduction of special duty remission procedures. In any event, duty remission may presently be claimed in respect of chain imported as parts of machinery under tariff item 42700-1 when the machinery in question is not available from Canadian production.

2. There being only a 1 p.c. difference in the (1987) M.F.N. rate of duty applicable to chain made in Canada and chain not so made, the two relevant tariff items (40700-1 and 40705-1) could appropriately be amalgamated at 9.2 p.c., 10.2 p.c., or some intermediate rate of duty.

3. Alternatively, the existing item, without the words "of a class or kind not made in Canada", could be retained as the preamble to a new two-part item, in which specific provisions would cover "made" goods and a residual (n.o.p.) provision would apply to "not made" goods.

TARIFF ITEM 42726-1

Existing Tariff Provisions

Ball and roller bearings of a class or kind not made
in Canada, n.o.p.; parts thereof

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

This is one of a number of items in the Customs Tariff relating to ball or roller bearings, both precision and all-purpose types, and parts thereof. It is the residual item for ball or roller bearings of a class or kind not made in Canada which do not qualify for entry under end-use items such as 42723-1 or 43806-1. Free entry under the M.F.N. Tariff is bound under GATT. It will be noted that parts of the bearings covered by the item are provided for without regard to their own made-in-Canada status. However, bearing parts are also provided for in other items such as 44205-1 (see infra), 44800-1 and 42730-1, which would take precedence.

When made in Canada, or if item 42726-1 should be deleted, the goods would fall under tariff item 42729-1 as "ball and roller bearings, n.o.p.; parts thereof", with a M.F.N. bound rate of 9.2 p.c.

Imports

This is one of the major items for review by the Board in the second part of the reference. Average annual imports under the item amounted to \$76.6 million during the years 1978-80, rising to \$114.7 million in 1981.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

At the time of publication of Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 (July, 1982) the published rulings relating to ball or roller bearings were under review as a result of the cessation of manufacture in Canada by one international producer of these goods, and the rationalization of production by the remaining Canadian manufacturers. Consequently, the only published ruling to which reference can presently be made is contained in that part of Appendix E of the aforementioned Memorandum pertaining to equipment for locomotives. Attention is also drawn to the Tariff Board's decision on ball bearings (apropos Appeal Nos. 383 and 386, dated 28/06/1960), reproduced in Departmental Memorandum D11-2-1, Appendix D, p. 21. Administrative rules governing invoice descriptions of ball and roller bearings are contained in Ibid. 10-8-9.

(b) Commodity Classes

The following listing, based upon Table 4; Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Ball and roller bearing, n.o.p.	
469-99-89 Metal fabricated basic products, nes	
-bearing, ball, with unground ball raceways of machined metal, stamped metal or plastic, up to 60.325 mm (2.375") OD	Made*
-other	Not Made
504-01-20 Bearing, ball, deep groove, motor vehicle	
-up to and including 90.000 mm (3.5433") OD	Uncertain*
-other	Not Made
504-01-40 Bearing, ball, angular contact, motor vehicle	
-double row, front wheel, up to and including 76.000 mm (2.9921") OD	Uncertain*
-other	Not Made
504-01-45 Bearing, ball, 1-row, maximum capacity, motor vehicle	Not Made
504-01-50 Bearing, cylindrical roller, motor vehicle	Not Made
504-01-52 Bearing, taper roller, 1-row to 6.625" OD motor vehicle	Uncertain*
504-01-54 Bearing, taper roller, 1-row greater than 6.625" OD motor vehicle	Not Made
504-01-55 Bearing, needle roller, motor vehicle	Not Made*
504-05-29 Bearing, ball, 1-row, 0.5" [12.7000 mm] OD & under nes	
-radial, excluding maximum capacity or maximum type	Made*
-other	Not Made*
504-05-39 Bearing, ball, 1-row, over 0.5" to 7.5" OD nes	
-radial, excluding maximum capacity, maximum type or cartridge type, up to and including 40.000 mm (1.5748")	Made*
-over 40.000 mm (1.5748") to 90.000 mm (3.5433")	Uncertain*
-other	Not Made*
504-05-49 Bearing, ball, 1-row, over 7.5" OD nes	Not Made
504-05-59 Bearing, ball, 1-row, 3.75" od & under, spherical nes	Not Made
504-05-69 Bearing, ball, 1-row, over 3.75" OD, spherical nes	Not Made
504-05-89 Bearing, ball, unmounted, nes	Not Made
504-06-29 Bearing, ball, angular contact, single row nes	Not Made
504-06-39 Bearing, ball, angular contact, double row nes	Not Made*
504-06-49 Bearing, ball, self-aligning, double row nes	Not Made
504-06-59 Bearing, ball, thrust type, nes	Not Made
504-06-69 Bearing, ball, 1-row to 7.5" OD, maximum capacity nes	Not Made
504-06-79 Bearing, ball, 1-row over 7.5" OD, maximum capacity nes	Not Made
504-15-29 Bearing, cylindrical roller, single row nes	Not Made
504-15-39 Bearing, cylindrical roller, double row nes	Not Made
504-15-49 Bearing, cylindrical roller, thrust type nes	Not Made
504-15-59 Bearing, spherical roller, single row nes	Not Made
504-15-69 Bearing, spherical roller, 2-row to 7.5" OD nes	Not Made
504-15-79 Bearing, spherical roller, 2-row over 7.5" OD nes	Not Made
504-15-89 Bearing, roller, unmounted, nes	Not Made*

504-16-19	Bearing, taper roller, 1-row to 6.625" [168.275 mm] OD nes	Uncertain*
504-16-29	Bearing, taper roller, 1-row over 6.625" OD nes	Not Made
504-16-39	Bearing, taper roller, multi-row nes	Not Made
504-16-49	Bearing, taper roller, thrust type nes	Not Made
504-16-59	Bearing, needle roller type, double row nes	Not Made
504-16-69	Bearing, roller, self-aligning, thrust type nes	Not Made
504-16-79	Bearing, roller, i/c engine, cylindrical, spherical taper nes	Not Made

* Indicates a change from Table 4 and/or a class regarding which further information is required.

The following commodity classes, included in the original listing in Table 4, have now been deleted since they cover a range of bearings for agricultural use which would more appropriately be classified under item 42723-1: c.c. 504-03-25, 504-03-39, 504-03-50, 504-03-60 and 504-03-69. Similarly, c.c. 504-01-30 and part of c.c. 504-01-59, encompassing integral shaft ball and roller bearings for motor vehicles, have been deleted, inasmuch as (according to the Ball and Roller Bearing Manufacturers' Association of Canada) Revenue Canada considers the pertinent goods to be more than bearings, and hence not properly classifiable under tariff item 42726-1. The same reasoning would also seem to be applicable to universal joint bearing assemblies (brought to the Board's attention by Hayes-Dana Inc., Drive Train Division, Thorold, Ont.). Also removed from the original listing are c.c. 504-01-49 and 504-01-89, as well as the remainder of c.c. 504-01-59, since these apply to residual ("nes") categories of bearings for use in motor vehicles without useful specific product descriptions. On the other hand, c.c. 504-01-52 ("bearing, taper roller, 1-row to 6.625" OD motor vehicle"), originally dismissed from further consideration as being of negligible interest, has now been reinstated in view of the substantial increase in pertinent imports in 1980 and 1981. Information regarding the made-in-Canada status of this category of products is required.

Respecting the provisional made-in-Canada designations of other relevant commodity classes, information supplied by BARBMAC indicates that all - as opposed to only some - of the goods falling into c.c. 504-01-55 ("bearing, needle roller, motor vehicle") and c.c. 504-15-89 ("bearing, roller, unmounted, nes") should be identified as "not made", while the former reference to "made" goods under c.c. 504-06-39 ("bearing, ball, angular contact, double row nes") has now been deleted, since it is understood that the goods in question would be encompassed by c.c. 504-01-40 ("bearing, ball, angular contact, motor vehicle").

It will be noted that various changes have been made to the parameters and/or "made" status of sub-classes of goods falling under c.c. 504-01-20, 504-01-40, 504-05-29, 504-05-39 and 504-16-19. These changes take account of the conflicting views of the manufacturers and importers of bearings as evidenced in their submissions to the Board. The Canadian manufacturing interest in the relevant product areas remains far from clear. To eliminate this uncertainty, a precise listing of each type and size of bearing made in Canada (if possible, cross-referenced by commodity class) would seem to be essential. Finally, among the remaining commodity classes, the product description attaching to relevant "made" goods falling under c.c. 469-99-89 ("metal fabricated basic products, nes") has been expanded to accord with the suggestion put forward by Kilian Manufacturing Limited of Toronto, Ont., a manufacturer of unground (non-precision) ball bearings.

Tariff Proposals

The Ball and Roller Bearing Manufacturers' Association of Canada (BARBMAC) representing Canadian Timken Limited of St. Thomas, Ont., FAG Bearings Limited of Stratford, Ont., NTN Bearing Mfg Canada (a division of NTN Bearing Corporation of Canada Limited) of Mississauga, Ont., and Torrington Inc. of Bedford, Que., proposes:

- (i) an eo nomine listing of "those types and sizes of ball and roller bearings including needle rollers, which are currently made in Canada", and encompassing the "made" goods currently classified under (non-referred) tariff item 42729-1, with the "not made" bearings (of which there are "many types and sizes") covered by a residual ("other than the following") basket provision;
- (ii) removal of the "n.o.p." rider presently applying to items 42726-1 and 42729-1, thereby giving the proposed provisions precedence over other bearings items containing the word "parts", and thereby allowing duty-free entry for all precision ball and roller bearings and parts thereof except those made in Canada;
- (iii) new tariff provisions worded as follows:

Ball and roller bearings; parts thereof:

42726-1	Other than the following				
		Free	Free	35 p.c.	Free Free
42726-2	(1) Single row radial ball bearings (not including maximum capacity, maximum type or cartridge type bearings), outside diameter up to and including 90.00 millimeters (3.5433 inches);				
	(2) Automobile front wheel double row angular contact ball bearings, outside diameter up to and including 76.00 millimeters (2.9921 inches);				
	(3) Miniature or small single row radial ball bearings (not including maximum capacity or maximum type bearings), outside diameter up to and including 12.7 millimeters (0.5 inches);				

- (4) Single row tapered roller bearings, outside diameter up to and including 168.2750 millimeters (6.625 inches);
- (5) Cylindrical needle rollers having a diameter of up to and including 6.350 millimeters (0.250 inches) and having a length not less than three times the diameter;

Free 9.2 p.c. 35 p.c. Free 9.2 p.c.

- (iv) as an alternative, "for greater certainty in classification", retention of 42729-1 as the number of the new item to be applied to "made" goods, instead of number 42726-2, as proposed in (iii), above;
- (v) providing protection to new bearings products as they become manufactured in Canada, by adding them to the list of dutiable goods by means of tariff amendments;
- (vi) an arrangement other than a single tariff item having a weighted average rate of duty.

SKF Canada Limited of Scarborough, Ont., the major producer of ball bearings in Canada prior to 1982, and now an importer and distributor of these products, in an independent submission, adopts a different position from that put forward by BARBMAC, of which it remains an associate member. SKF favours:

- (i) clarification and simplification of the existing tariff classification system with respect to bearings;
- (ii) an eo nomine listing of those "relatively few types and sizes" of bearings presently made in Canada;
- (iii) distinguishing in the tariff nomenclature between "rolling" (ball and roller) bearings and "plain" (bushings, rod-end) bearings, the latter bearings generally entering at present under tariff item 44603-1 ("manufactures ... of iron or steel ... n.o.p.");
- (iv) eliminating any "n.o.p." qualifications from other related items;
- (v) eliminating end-use duty preferences administered through the Customs Tariff;
- (vi) using the duty remission process, administered by the Department of Industry, Trade and Commerce, for conferring any concessions upon select economic groups (e.g. in the automotive, agricultural or mining sectors);
- (vii) providing duty-free entry for those goods not conceded by the company to be made in Canada;
- (viii) as a second position with respect to the dutiable status of the aforementioned goods, applying a weighted average tariff rate of up to 5 p.c., if "deemed advisable" and "so long as it would be applied equally and fairly across the spectrum of product";
- (ix) new tariff provisions, as follows:

M.F.N.

Rolling bearings and parts thereof

42726-1	Except the following	Free (or up to 5 p.c.)
42726-2	Miniature rolling bearings up to 0.5" OD and parts	9.2 p.c.
42726-3	Water pump bearings and parts thereof	9.2 p.c.
42726-4	Railway journal bearing assemblies and parts thereof	Free
42726-5	Plain bearings - ball bushings, rod-end, and parts thereof	10.2 p.c. (or weighted average rate)

The Railway Association of Canada (RAC), representing all Canadian railways as well as those U.S. lines operating in Canada, being users of certain kinds of bearings and parts thereof, proposes:

- (i) maintaining duty-free entry for: (a) cylindrical roller bearings, double row, over 7.5" OD; (b) spherical roller bearings, double row, over 7.5" OD; and (c) taper roller bearings, multi row, over 7.5" OD;
- (ii) providing for "made" bearings in an eo nomine dutiable item, with free admission for all other bearings;
- (iii) treating the entire bearing assembly as constituting the bearing for tariff purposes (reference being made to "the present difficulty about backing rings, which have to be ordered separately or taken off and separately imported and, in any event, have duty separately paid");
- (iv) as an alternative to (ii) above, providing for the establishment of a number of duty-free items based on specific eo nomine descriptions of "not made" goods, including one item directed at "railway journal bearing assemblies and parts thereof".

Excelsior Rolling Bearing Services, Westfield, New Jersey, U.S.A., a supplier of bearings to Canadian railroads, supports the brief of the Railway Association of Canada, indicating particular concern respecting the provision of duty-free access for the 12.5" OD outer race component of the railway roller bearing assembly used for GMDD (General Motors) diesel locomotives.

Air Canada and Pratt & Whitney Aircraft of Canada Ltd., Longueuil, Que., both users of bearings, in separate but identical submissions, indicate support "in part" of the brief submitted by SKF Canada Limited, and make reference to:

- (i) the "ambiguities" of the present tariff classification system;
- (ii) a preference for an eo nomine approach;
- (iii) the lack of recognition in Background No. 9 to bearings for use in aircraft;

- (iv) the "very few types and sizes of bearings that are in fact manufactured in Canada", FAG Bearings Limited of Stratford, Ont., being cited as "the only Transport Canada approved manufacturer of aircraft bearings to approved specifications in Canada", as of April 1982;
- (v) the need for "a detailed review of the protective tariff as it exists today".

The Air Industries Association of Canada, representing over 100 Canadian manufacturers, in a submission made in connection with the Board's hearings on tariff items covering goods used in the construction or equipment of aircraft and ships, contends:

- (i) ball and roller bearings are no longer being manufactured in Canada in any commercial quantities, "so that the 'class or kind' qualification is no longer applicable";
- (ii) when for use in aircraft, bearings should be allowed duty-free entry;
- (iii) to achieve (ii), above would require changes in the wording of items 42726-1 and 42729-1, in addition to the removal of the "class or kind" provision.

Federal-Mogul Canada Limited, a Canadian importer of bearings, in a post-hearing communication to the Board, indicates an interest in maintaining the duty-free status of goods qualifying for entry under tariff item 42726-1, in this regard noting the inappropriateness of certain "made in Canada" rulings consequent upon the discontinuance of domestic manufacturing operations by SKF Canada Limited.

Fafnir Bearing, Division of Textron Canada Limited, of Rexdale, Ont., "as an importer of many years standing", suggests "the use of more explicit wording" to describe two classes of bearings which it acknowledges are currently made in Canada, in this connection referring to a booklet published in July, 1980, by the Ball and Roller Bearing Manufacturers' Association of Canada, with the co-operation of Revenue Canada, "as a guideline for correct descriptive terminology".

A group of steel producers - The Algoma Steel Corporation Ltd., Atlas Steels (A Div. of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - speaking as users and purchasers of ball and roller bearings, notes a general preference for "some form of ex nomine method", with provision for duty remission "where dutiable goods must be imported because they are not made or available in Canada".

Staff Appraisal

1. Very few types or sizes - and even fewer classes or kinds - of bearings are seemingly presently made in Canada.

2. Those goods which are "made" and which are included under "uncertain" commodity classes or sub-classes, need to be more precisely defined.

3. In the absence of definitive information regarding the made-in-Canada status of "uncertain" product categories, these will have to be allocated for duty purposes on the basis of whatever data are available.

4. In view of the difficulty of identifying and defining all the "not made" goods, the most appropriate tariff solution would be to list the "made" bearings in a dutiable item, with the "not made" bearings provided for in a residual ("other than the following") duty-free provision.

5. The approach indicated in 4, above, would eliminate the need for tariff item 42729-1 ("ball and roller bearings, n.o.p."), which could thus be deleted.

6. At the same time, removal of the "n.o.p." rider from item 42726-1 would have the effect of attracting bearings from the "parts" provisions of a myriad of end-use tariff items under which they are presently admitted. Such a development is seen as advantageous in view of the impending conversion of the Canadian tariff classification system to a system based upon the Customs Co-operation Council Nomenclature (CCCN).

7. The perceived scope of existing item 42726-1 notwithstanding, there would seem to be merit in the proposal to make special provision in any new tariff arrangement for the duty-free entry of "railway journal bearing assemblies and parts thereof".

8. The potential list of "made" (dutiable) bearings being short and specific, no justification can be seen for the application of duty remission provisions based upon non-availability.

TARIFF ITEMS 44205-1 AND 97056-1

Existing Tariff Provisions

As these two items relate essentially to the same goods, they are being treated together.

Tariff Item 44205-1

Materials, including all parts, wholly or in chief part of metal, of a class or kind not made in Canada, when imported for use in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42723-1, 42726-1, 42729-1, 42732-1, 42733-1, 42741-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, 44037-1, 44040-1 and 44705-1, under such regulations as the Minister may prescribe

Free	Free	10 p.c.	Free	Free
------	------	---------	------	------

Free entry under the M.F.N. Tariff was bound in the MTN.

Drawback Item 97056-1

Materials, including all parts, wholly or in chief part of metal, of a class or kind not made in Canada
When used in the manufacture of goods entitled to entry under tariff items 41100-1, 41105-1, 41105-2, 41110-1, 42723-1, 42726-1, 42729-1, 42732-1, 42733-1, 42741-1, 42805-1, 42805-2, 42805-3, 42815-1, 42816-1, 42817-1, 44037-1, 44040-1 and 44705-1

Portion of duty payable as drawback: 100 p.c.

The coverage of the items is clear from their wording. It is required that the goods be materials (defined as including all parts) wholly or in chief part of metal, for use in the manufacture of any of the products covered by the (identical) lists of 19 cited tariff items. No ministerial regulations have been issued with reference specifically to tariff item 44205-1.

The 19 tariff items cited in the referred items are as follows:

Tariff Item 41100-1

Machines for use in sawing lumber, up to but not including the operation of planing, and parts thereof, not including equipment for driving the machinery of the saw mill, when for use exclusively in saw mills;
Machines, and parts thereof, for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/83	10 p.c.	10.3 p.c.	20 p.c.	6.5 p.c.	10 p.c.
1/1/87	8 p.c.	8 p.c.		5 p.c.(a)	8 p.c.

(a) Subject to Parliamentary approval of Budget Resolutions dated April 19, 1983.

Except that in the case of the importation into Canada of any goods enumerated in this item, the Governor in Council on the recommendation of the Minister of Industry, Trade and Commerce may, whenever he considers that it is in the public interest and that the goods are not available from production in Canada, remit the duty specified in this item applicable to the goods, and subsections 17(2), (3), (4), (5) and (8) of the Financial Administration Act apply in the case of remission granted under this provision.

Tariff Item 41105-1

Self-propelled trucks, not including machines for felling, skidding, piling, loading, bunching or processing trees or logs, which have been modified for carrying a load; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/83	10 p.c.	10.9 p.c.	20 p.c.	7 p.c.	10 p.c.
1/1/87	9.2 p.c.	9.2 p.c.		Free(a)	9.2 p.c.

Tariff Item 41105-2

Logging cars; captive balloons; blocks and tackle; wire rope, not including wire rope to be used for guy ropes or in braking logs going down grade; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/83	10 p.c.	10.3 p.c.	20 p.c.	6.5 p.c.	10 p.c.
1/1/87	8 p.c.	8 p.c.		Free(a)	8 p.c.

Tariff Item 41110-1

Cylinder stave saws, wheel type stave jointers, crozing and champhering machinery, and complete parts thereof

1/1/83	10 p.c.	10.3 p.c.	20 p.c.	6.5 p.c.	10 p.c.
1/1/87	8 p.c.	8 p.c.		5 p.c.(a)	8 p.c.

Tariff Item 42723-1

Ball and roller bearings for the repair of agricultural implements and agricultural machinery specified in tariff items 40900-1, 40902-1, 40904-1, 40906-1, 40908-1, 40910-1, 40912-1, 40914-1, 40916-1, 40918-1, 40920-1, 40924-1, 40928-1, 40932-1, 40934-1, 40936-1, 40942-1, 40944-1, 40948-1, 40950-1, and the tractors provided for in tariff item 40938-1; parts thereof

Free	Free	Free	Free	Free
------	------	------	------	------

(a) Subject to Parliamentary approval of Budget Resolutions dated April 19, 1983.

Tariff Item 42726-1

Ball and roller bearings of a class or kind not made in Canada, n.o.p.; parts thereof

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

Tariff Item 42729-1

Ball and roller bearings, n.o.p.; parts thereof

1/1/83	Free	12.1 p.c.	35 p.c.	Free	9.2 p.c.
1/1/87		9.2 p.c.		Free(a)	

Tariff Item 42732-1

Machinery and apparatus for dairying purposes, namely: power churns, power milk coolers, power ice cream mixers, power butter printers, power cream savers, power bottle sterilizers, power brine tanks, valveless or centrifugal milk pumps, sanitary milk and cream vats; none of the foregoing machinery to include motive power; parts of all the foregoing

1/1/83	Free	7.5 p.c.	35 p.c.	Free	Free
1/1/87		Free		Free(a)	

Tariff Item 42733-1

Machinery for dairying purposes, namely: power fillers and cappers, power milk bottle washers, power milk can washers, ice-breaking machines; none of the foregoing machinery to include motive power; parts of all the foregoing

1/1/83	Free	3.8 p.c.	35 p.c.	Free	Free
1/1/87		Free		Free(a)	

Tariff Item 42741-1

Machines for the manufacture of veneers and plywoods, viz.:- Veneer clippers; veneer clipper knife jointers; veneer glue spreaders; veneer jointers; veneer lathes; automatic veneer reelers with supporting trays and hoists; automatic veneer unreelers; veneer conveyors specially designed for use with automatic veneer reelers and unreelers; veneer taping machines; complete parts of all the foregoing

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

Tariff Item 42805-1

Boilers and complete parts thereof, n.o.p.

1/1/83	13.8 p.c.	13.8 p.c.	30 p.c.	9 p.c.	13.8 p.c.
1/1/87	12.5 p.c.	12.5 p.c.		8 p.c.(a)	12.5 p.c.

(a) Subject to Parliamentary approval of Budget Resolutions dated April 19, 1983.

Tariff Item 42805-2

Engines and complete parts thereof, n.o.p.

1/1/83	12.1 p.c.	12.1 p.c.	30 p.c.	8 p.c.	12.1 p.c.
1/1/87	9.2 p.c.	9.2 p.c.		6 p.c.(a)	9.2 p.c.

Tariff Item 42805-3

Turbines, steam or gas, and complete parts thereof, n.o.p.

15 p.c.	15 p.c.	30 p.c.	10 p.c.	15 p.c.
---------	---------	---------	---------	---------

Tariff Item 42815-1

Diesel and semi-diesel engines, of a class or kind made in Canada, and parts thereof, n.o.p.

1/1/83	Free	12.1 p.c.	30 p.c.	Free	12.1 p.c.
1/1/87		9.2 p.c.		Free(a)	

Tariff Item 42816-1

Diesel and semi-diesel engines, of a class or kind not made in Canada, and parts thereof, n.o.p.

1/1/83	Free	12.1 p.c.	30 p.c.	Free	9.2 p.c.
1/1/87		9.2 p.c.		Free(a)	

Tariff Item 42817-1

Diesel and semi-diesel engines of 500 horsepower or less, and complete parts thereof, n.o.p.

1/1/83	Free	12.1 p.c.	30 p.c.	Free	9.2 p.c.
1/1/87		9.2 p.c.		Free(a)	

Tariff Item 44037-1

Engines and parts thereof, n.o.p., for use in boats used exclusively in commercial fishing operations under such regulations as the Minister may prescribe

Free	Free	15 p.c.	Free	Free
------	------	---------	------	------

Tariff Item 44040-1

Materials and articles for the manufacture or repair of the engines provided for in item 44037-1

Free	Free	15 p.c.	Free	Free
------	------	---------	------	------

Tariff Item 44705-1

Sand cast rolls and chilled cast iron rolls, for use exclusively in rolling iron or steel, or in manufacturing paper

Free	Free	Free	Free	Free
------	------	------	------	------

(a) Subject to Parliamentary approval of Budget Resolutions dated April 19, 1983.

Of the foregoing items, it should be noted that tariff item 42726-1 is itself included in Phase II of Reference No. 157 and is the subject of a separate review. Although tariff items 42815-1, 42816-1 and 42817-1 were not included in the reference, they were the subject of recommendations made by the Board in its report on Phase I (p. 176).

Given the dutiable treatment of goods entering under tariff item 44205-1, there might appear to be little scope for the payment of drawback, except perhaps with respect to goods cleared under the General Tariff; however, in recent years, there have been no imports under item 44205-1 coming from countries whose products are subject to such treatment. Evidently, the drawback provision serves as a backup to the tariff item by providing a mechanism for the return of duties when the requirements for a refund claim cannot be met, perhaps after goods originally cleared under a dutiable item have changed hands in Canada before coming into the possession and use of an eligible manufacturer. In instances of difficulty in matching imported materials to a specific import entry, or where documentation for a refund claim is otherwise inadequate, the drawback item offers an alternative method of recovering the duty.

When ruled to be of a class or kind made in Canada, or if item 44205-1 were to be deleted, the metallic materials and parts would be classifiable under a wide variety of items. In certain instances (see items 44037-1 and 44040-1 above, for example), other end-use items might be applicable. To the extent that the above items provide for parts, complete parts, parts, n.o.p., etc., the parts or complete parts would be under the said items. Materials and parts not covered by the above would be classified according to their own material or nature, usually in the tariff items in the proper metallic schedule appropriate to the degree of manufacture already undergone.

Imports

Average annual imports under tariff item 44205-1 amounted to \$153.3 million during the years 1978-80. They increased to \$253.1 million in 1981 and fell to \$183.2 million in 1982. There are no published figures for drawback items.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings relating specifically to items 44205-1 and 97056-1 in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1, but it is probable that some goods in regard to which published rulings exist would be considered as materials or parts for the purposes of these items.

(b) Commodity Classes

The following listing, based mainly upon information contained in Background No. 9, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff items.

1) Materials ...

a) Iron or steel

443-25-29	Grey iron castings, rough	Uncertain*
443-25-39	Grey iron alloy castings, rough, nes	Made*
443-25-50	Grey iron castings, rough, sandcast rolls	Uncertain*
443-59-89	Steel castings, alloy steel, nes, rough, unfinished	Uncertain*
443-99-39	Steel forgings, alloy steel, nes, closed die, rough, unfinished	Made*
443-99-59	Steel forgings, alloy steel, nes, flat or open die, rough, unfinished	Not Made*
443-99-60	Steel forgings, mold steel, rough, unfinished	Uncertain*
444-27-10	Flat bars, alloy steel, nes, hot rolled	Uncertain*
444-29-49	Bars, alloy steel, nes, hot rolled, rounds	Uncertain*
444-60-29	Bars, carbon steel, nes, cold drawn/cold finished, flats	Not Made*
444-90-90	Bars, alloy steel, nes, cold drawn or cold finished	Uncertain*
444-99-89	Bars and rods, steel, fabricated, nes	Uncertain*
444-02-89	Plates, carbon steel, nes, 60" wide & less, cut lengths	Uncertain*
445-03-89	Plates carbon steel, nes, over 60" to 100" wide, cut lengths	Uncertain*
445-04-89	Plates, carbon steel, over 100" wide, cut lengths	Uncertain*
445-13-40	Plates, stainless steel, 3/16" & heavier, greater than 72" wide, cut lengths	Not Made
445-16-90	Plates, alloy steel, nes	Not Made*
445-18-50	Plates, steel, elliptical heads	Uncertain*
445-18-60	Plates, steel, spherical heads	Uncertain*
445-19-90	Plates, steel, fabricated or coated, nes	Made*
445-22-23	Plates, carbon steel, for saws	Uncertain*
445-22-25	Plates, alloy steel, for saws	Uncertain*
445-22-33	Sheets, carbon steel, for saws	Uncertain*
445-22-35	Sheets, alloy steel, for saws	Uncertain*
445-22-43	Strips, carbon steel, for saws	Uncertain*
445-22-45	Strips, alloy steel, for saws	Uncertain*
445-31-90	Strips carbon steel, hot rolled, nes, 12" wide & less	Uncertain*
445-36-23	Spring steel excluding saw steel, carbon steel, cold rolled, untempered	Uncertain*
445-36-79	Strips, carbon steel, cold rolled, nes, 12" wide and less	Uncertain*
445-81-43	Sheet/strip, stainless steel, hot rolled, to 60" wide, 8 to 16 gauge	Uncertain*
445-85-45	Strips, stainless steel, other than 300 series, cold rolled, to 18" wide, .013" and thicker	Uncertain*
445-95-79	Sheet/strip, alloy steel, nes, hot rolled	Uncertain*
445-95-89	Sheet/strip, alloy steel, nes, cold rolled	Uncertain*
445-99-20	Sheet/strip, steel, corrugated, coated or not	Uncertain*
445-99-90	Sheet/strip, steel, fabricated, nes	Uncertain*
448-29-50	Tubing, carbon steel, seamless, for bearings	Uncertain*
448-29-59	Tubing, mechanical, carbon steel, seamless, nes, new	Uncertain*
448-35-70	Pipes/piping, pressure, carbon steel, welded, over 4.5" OD, new	Not Made*

448-38-70	Pipes/piping, pressure, carbon steel, welded, 4.5" OD & under, new -1/2" to 4 1/2" OD, wall thickness .0652" to .375" -other	Made* Not Made*
448-38-75	Tubes, pressure, carbon steel, welded, 4.5" OD & under, new	Uncertain*
448-44-50	Pipes/piping, pressure, carbon steel, seamless, hot finished, new -1" to 12 3/4" OD, wall thickness within range .035" to 1.600" -other	Made* Not Made
448-44-55	Tubes/tubing, carbon steel, seamless, hot finished, boiler, new	Not Made*
448-44-59	Tubes, pressure, carbon steel, seamless, hot finished, nes, new	Uncertain*
448-44-89	Pipes/tubes, carbon steel, seamless, hot finished, nes, new	Uncertain*
448-49-50	Pipes/piping, pressure, carbon steel, seamless, cold finished, nes	Uncertain*
448-49-55	Tubes/tubing, carbon steel, seamless, cold finished, boiler, new -11/16" to 4" OD, wall thickness .075" to .380", but not including ultrasonic level of quality -other	Made* Not Made*
448-49-59	Tubes, pressure, carbon steel, seamless, cold finished, new	Uncertain*
448-49-89	Pipes/tubes, carbon steel, seamless, cold finished, nes, new	Uncertain*
448-68-60	Tubes/tubing, stainless steel, welded, pressure, new	Uncertain*
448-68-65	Tubes/tubing, stainless steel, seamless, pressure, new	Uncertain*
448-68-90	Pipes/tubes, stainless steel, nes, new	Uncertain*
448-69-45	Tubing, mechanical, alloy steel, except stainless steel seamless, new -3/16" to 7" diameter, wall thickness within range .010" to 1.250", not including roller bearing quality -other	Made* Not Made
448-69-50	Pipes, piping, pressure, alloy steel, except stainless steel, welded, new	Uncertain*
448-69-55	Pipes/piping, pressure, alloy steel, except stainless steel, seamless, new -3/16" to 7" OD, wall thickness within range .010" to 1.250" -other	Made* Not Made
448-69-60	Tubes/tubing, alloy steel, except stainless steel, welded, pressure, new	Uncertain*
448-69-65	Tubes/tubing, alloy steel, except stainless steel seamless, pressure, new -3/16" to 7" OD, wall thickness .010" to 1.250" -other	Made* Not Made
448-68-79	Pipes/tubes, alloy steel, except stainless steel, welded, nes, new	Uncertain*
448-69-89	Pipes/tubes, alloy steel, except stainless steel, seamless, nes, new	Uncertain*
448-89-89	Pipes/tubes, iron or steel, nes	Uncertain*
b) Other		
451-40-10	Pipes/tubes, aluminum/aluminum alloy	Uncertain*
454-76-31	Sheets, nickel-chromium alloy	Uncertain*

454-99-30	Castings, nickel alloy, unfinished	Uncertain*
454-99-59	Bars, nickel-alloy nes, except wire bars	Uncertain*
459-99-34	Cobalt alloys, primary forms and fabricated materials	Uncertain*
459-99-90	Non-ferrous alloys, nes, primary forms and fabricated materials	Uncertain*

[It will be appreciated that the above materials may be used in the manufacture of products described in any of several of the tariff items mentioned in item 44205-1, and that, with a few exceptions, they cannot be related to any particular item unless further identified. The exceptions cover materials for use in the manufacture of high pressure boilers (cc 444-60-29 and 445-16-90), and for non friction roller bearings (cc 448-69-45) per submissions by Foster Wheeler Limited, St-Catherines, Ont., and Canadian Timken Limited, St-Thomas, Ont., respectively. As well, it is evident from their descriptions that certain other classes are particularly related to the manufacture of specific products.]

- 2) ... including all parts, wholly or in chief part of metal when imported for use in the manufacture of goods entitled to entry under tariff items:

a) 41100-1

513-32-50	Winch, for mounting on log skidders	Made
519-39-21	Transmissions, log skidder	Not Made
519-39-29	Skidder, log, tractor type, parts of, nes	
	-planetary type driven axles	Not Made
	-other	Made
519-39-31	Transmissions, log loader, tractor type	Not Made
519-39-39	Loader, log, integral tractor type, parts, nes	
	-planetary type driven axles	Not Made
	-other	Made
519-39-89	Woodland log handling equipment, parts of nes	
	-planetary type driven axles	Not Made
	-other	Made
524-15-90	Saws, chain, woodworking, parts/accessories, nes	
	-carburetors; ignition systems (magneto and high tension leads)	Not Made
	-other	Made
524-25-28	Sawing machine, sawmill, parts of	Uncertain*
524-25-88	Sawmill machinery & equipment nes, parts of	Uncertain*
524-28-78	Sawing machinery, woodworking, nes, parts of	Uncertain*
524-99-18	Harvestors, tree, machinery, equipment, nes, parts of	Uncertain*

b) 41105-1 and 41105-2

509-99-42	Clutches, power transmission	Uncertain*
509-99-70	Shafts, power transmission, except camshafts/ drive shaft	Uncertain*
509-99-72	Camshafts, power transmission	Uncertain*
509-99-89	Power transmission equipment, nes	Uncertain*
551-85-20	Engines, diesel, tractor	Uncertain*
551-99-90	Tractors, parts & accessories, nes	Uncertain*
571-57-10	Locomotive engines, diesel and semi-diesel	Uncertain*
571-58-88	Locomotive engines, parts of	Uncertain*
588-04-10	Engines, diesel, motor vehicle	Uncertain*
588-34-10	Engines, diesel, motor vehicle, parts of	Uncertain*
589-90-89	Suspension, parts, nes, motor vehicles nes	Uncertain*
589-95-29	Axles, rear, motor vehicles nes	Uncertain*
589-99-89	Motor vehicles parts and accessories, nes	Uncertain*

c) 41110-1		
524-99-88	Woodworking machinery/equipment, nes parts of	Uncertain*
d) 42723-1, 42726-1 and 42729-1		
504-05-89	Bearings, ball, unmounted, nes	Uncertain*
504-09-10	Bearings, ball, nes, parts of, nes	Uncertain*
504-15-89	Bearings, roller, unmounted, nes	Uncertain*
504-19-89	Bearings roller, nes, parts of, nes	
	-cylindrical needle rollers having a diameter up to and including 6.350 mm (0.250"), and a length not less than three times the diameter	Made*
	-cages for tapered roller bearings	Not Made*
	-other	Uncertain*
504-33-88	Bearings, unmounted, nes, parts of	Uncertain*
504-37-88	Bearings, mounted, nes, parts of	Uncertain*
e) 42732-1		
528-57-88	Dairy products, plant machinery/equipment, nes, parts of	Uncertain*
f) 42733-1		
509-04-88	Bottling machinery, industrial, parts of	Uncertain*
509-06-88	Canning machinery, industrial, parts of	Uncertain*
528-57-88	Dairy products plant machinery/equipment, nes, parts of	Uncertain*
g) 42741-1		
524-69-26	Tool, cutting, for veneer lathes	Uncertain*
524-69-58	Plywood making machinery/equipment, nes, parts of	Uncertain*
524-69-88	Veneer making machinery/equipment, nes, parts of	Uncertain*
h) 42805-1		
501-49-64	Soot blower, power boiler house	Not Made*
501-49-69	Steam generation power electric equipment, nes	Uncertain*
501-49-64	Soot blower, power boiler house	Not Made*
501-49-71	Tubes, power boiler, bent or fabricated	
	-welded pressure tubing	Made*
	-other	Uncertain*
501-49-72	Drums, power boiler	Not Made*
501-49-73	Heads, power boiler	
	-heavy wall and/or specialty alloy heads	Not Made
	-other	Made
501-49-79	Boiler, power, parts of, nes	
	-burners	Made
	-other	Not Made
501-49-89	Boilerhouse equipment, power, nes	Uncertain*
502-99-58	Reactors, atomic/nuclear, general purpose, parts of	Uncertain*
507-99-28	Blowers, industrial, parts of	Uncertain*
703-44-90	Fluid flow measuring/controlling instruments, nes	Not Made*
i) 42805-2		
502-09-28	Engines steam, stationary types, parts of	Not Made
502-29-10	Engines, gas, nes, parts of, nes	Not Made
502-99-28	Engines, gas, general purpose, accessories	Uncertain*
502-99-88	Engines, general purpose, nes, parts of, nes	Uncertain*
763-06-90	Mowers, lawn, power, parts, attachments & accessories nes	Uncertain*

j) 42805-3

502-09-88	Turbine, steam, stationary type, parts of -fully machined rotors, blade diaphragms and spindle discs for single-stage steam turbines: (i) with ratings to 5,000 hp (ii) with ratings over 1,000 hp -fully machined rotors, spindle discs, shafts and blades for multi-stage steam turbines: (i) with ratings to 80,000 hp (ii) with ratings over 80,000 hp -fully machined blade diaphragms for multi-stage steam turbines (i) with ratings to 80,000 hp (ii) with ratings between 80,000 hp (60,000 kw) and 201,000 hp (150 mw) (iii) with ratings between 201,000 hp (150 mw) and 1,073,000 hp (800 mw) -rough machined rotor/shaft/spindle forgings, vertically heat treated and/or heat induction tested; fluid film journal and thrust bearings; blades/buckets larger than 4" for rotating elements; castings for stationary blades/vanes/nozzles and/or multiples thereof; actuators, servo motors and governors; trip and throttle valves; sensing and trip devices for speed, temperature, pressure and vibration -other	Made* Not Made* Made* Not Made* Made* Not Made* Made* Not Made* Uncertain* Uncertain*
502-39-88	Turbine, hydraulic, parts of	
502-40-88	Turbine, gas, general purpose type, parts of -fully machined rotors, blade diaphragms, spindle discs and shafts for gas turbines: (i) with ratings to 11,730 hp (ii) with ratings between 11,730 hp and 50,000 hp -fully machined blades -rough machined rotor/shaft/spindle forgings, vertically heat treated and/or heat induction tested; rough machined disc/wheel and torque tube forgings for gas turbines and/or sub-assemblies thereof; fluid film journal and thrust bearings; forged and cast blades/buckets for rotating elements of gas turbines and/or sub-assemblies thereof; castings for stationary blades/ vanes/nozzles and/or multiples thereof; actuators; servomotors and governors; trip and throttle valves; sensing and trip devices for speed, temperature, pressure and vibration -other	Not Made* Made* Not Made* Not Made* Uncertain* Uncertain*
502-99-68	Turbine, air, general purpose nes, parts of	

k) 42815-1, 42816-1 or 42817-1

502-19-10	Engines, diesel & semi-diesel, nes, parts of	Uncertain*
502-99-18	Engines, diesel & semi-diesel, general purpose, accessories	Uncertain*

l) 44037-1 and 44040-1

592-29-10	Engines, diesel and semi-diesel, marine, parts	Uncertain*
592-40-88	Gasoline engines, other than diesel and outboard, marine, parts	Uncertain*
592-55-10	Outboard motors, parts of	Uncertain*
592-99-88	Engines, nes, marine, parts of	Uncertain*

m) 44705-1

823-56-88	Rolling mill machinery, nes, parts of	Uncertain*
525-39-88	Rolls, pulp, paper and paperboard machinery, nes, parts	Uncertain*

n) Classes accounting for substantial imports under tariff item 44205-1, but not assigned to particular items above

468-49-89	Valves, nes	Uncertain*
468-55-21	Fittings, pipe, butt welding, steel	Uncertain*
468-99-69	Joints, expansion, pipe, nes	Uncertain*
502-18-39	Diesel engines, nes, 100 bhp and under	Not Made*
502-18-49	Diesel engines, nes, over 100 bhp to 200 bhp	Not Made*
502-18-59	Diesel engines, nes, over 200 bhp to 500 bhp	Not Made*
502-40-89	Turbines, gas, nes, over 2,000 hp	Uncertain*
502-99-32	Engines, natural gas fired, general purpose	Uncertain*
503-13-30	Generator sets, steam turbine	Uncertain*
503-19-31	Armature and rotors, alternating current generator	Uncertain*
507-36-32	Compressors, gas, stationary, parts of	Uncertain*
507-36-89	Compressors, gas, nes, parts of	Uncertain*
703-95-90	Measuring, measuring and controlling instru- ments, parts, nes	Uncertain*

[In relation to the foregoing classes, interested parties are invited to submit information respecting the products of which the named goods constitute parts and the tariff item(s) into which those products fall.]

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Various commodity classes have been added to those originally listed in Table 4. The following classes have been added, with a "not made" designation, as a result of representations by Foster Wheeler Limited: c.c. 443-99-59 ("steel forgings, alloy steel, nes, flat or open die, rough, unfinished"), c.c. 444-60-29 ("bars, carbon steel, nes, cold drawn/cold finished, flats"), c.c. 445-16-90 ("plates, alloy steel, nes"), c.c. 448-35-70 ("pipes/piping, pressure, carbon steel, welded, over 4.5" OD, new"), c.c. 448-44-55 ("tubes/tubing, carbon steel, seamless, hot finished, boiler, new"), c.c. 501-49-64 ("soot blower, power boiler house"), c.c. 501-49-72 ("drums, power boiler"), and c.c. 703-44-90 ("fluid flow measuring/controlling instruments, nes"). All of these classes, except c.c. 448-35-70, were originally identified as relevant in Table 1 of Background No. 11, but were not further considered. To accommodate the production interest of Stelco Inc., c.c. 448-38-70 ("pipes/piping, carbon steel, welded, 4.5" & under, new") has been included in the above listing.

Also included, in light of a further review of the import statistics and the Canadian International Trade Classification, are the following classes:

443-25-29, 443-25-50, 443-59-89, 443-99-60, 444-27-10,
444-29-49, 444-90-90, 444-99-89, 445-02-89, 445-03-89,
445-04-89, 445-18-50, 445-22-23, 445-22-25, 445-22-33,
445-22-43, 445-31-90, 445-36-23, 445-36-79, 445-81-43,
445-85-45, 445-95-79, 445-95-89, 445-99-20, 445-99-90,
448-29-50, 448-29-59, 448-35-75, 448-44-59, 448-44-89,
448-49-50, 448-49-59, 448-49-89, 448-68-60, 448-68-65,
448-68-69, 448-69-50, 448-69-60, 448-69-79, 448-69-89,
448-89-89, 451-40-10, 454-76-31, 454-99-30, 454-99-59,
459-99-34, 459-99-90, 468-44-89, 468-55-21, 468-99-69,
502-40-89, 502-99-18, 502-99-28, 503-13-30, 504-05-89,
504-09-10, 504-15-89, 504-19-89, 504-33-89, 504-37-88,
504-99-42, 504-99-70, 504-99-72, 504-99-89, 507-36-32,
507-36-89, 509-04-88, 509-06-88, 523-56-88, 524-15-90,
524-25-88, 524-28-78, 524-69-26, 524-69-58, 524-69-88,
524-99-18, 524-99-38, 528-39-88, 528-57-88, 551-85-20,
588-04-10, 588-34-10, 589-90-59, 589-95-29, 589-99-89,
592-29-10, 592-40-58, 592-58-10, 592-99-88, 703-95-90.

All of the foregoing classes have been given an "uncertain" made-in-Canada designation in the preceding table. Interested parties are invited to comment on the relevance of these classes to the tariff items named in items 44205-1 and 97056-1, and also to give their views on the made-in-Canada status of the pertinent goods. In the case of broad n.e.s. ("not elsewhere specified") classes, observations are requested with respect to particular products falling thereunder.

In addition to the aforementioned changes, the made-in-Canada determinations and/or parameters of various classes/sub-classes of goods have been altered as a result of representations made to the Board. Reflecting the anticipated entry into operation of a new seamless tube mill at the steel making plant of Algoma Steel Corporation, Limited in early 1984, as detailed in a post-hearing submission by the company, the size ranges of "made" seamless tubes and pipes falling under commodity classes 448-44-50, 448-69-45, 448-69-55 and 448-69-65 have been widened; at the same time, in response to a post-hearing communication from Canadian Timkin Limited, a rider has been added excluding mechanical seamless alloy steel tubing of roller bearing quality from the coverage of "made" goods encompassed by c.c. 448-69-45. Also in the general sphere of steel production and fabrication, information provided by the major domestic steel producers for the public hearing and by Stelco Inc. subsequently, has resulted in the following classes of goods, previously listed as "not made" or of "uncertain" identity, being re-categorized, in whole or in part, as "made in Canada": c.c. 448-49-55 ("tubes/tubing, carbon steel, seamless, cold finished, boiler, new"), c.c. 443-25-39 ("grey iron alloy castings, rough, nes"), c.c. 443-99-39 ("steel forgings, alloy steel nes, closed die, rough & unfinished"), c.c. 445-19-90 ("plates, steel, fabricated or coated, nes") and c.c. 501-49-71 ("tubes, power boiler, bent or fabricated"). Further, reservations expressed by the steel producers respecting the provisional "not made" categorization attached to c.c. 445-22-35 and 445-22-45, relating to alloy steel sheets and strips for saws, have led to the substitution of "uncertain" as a more appropriate designation for these classes.

Among other product areas of significant concern, it has been especially difficult, in view of the paucity of specific information and the conflicting nature of much of the testimony presented to the Board, to reach definitive conclusions regarding the made-in-Canada status of parts and other materials used in the manufacture of ball and roller bearings (for further on this, see review of tariff item 42726-1, supra). Accordingly, an "uncertain" designation has now been attached to the whole of c.c. 504-09-10 ("bearing, ball, nes, parts of, nes"), while there has been some redefinition of "made" and "not made" sub-classes of goods falling under c.c. 504-19-89 ("bearing, roller, nes, parts of, nes").

Conflicting representations and a lack of easily usable information have also posed problems with respect to the clarification of the made-in-Canada status of parts and other materials used in the manufacture of steam and gas turbines (c.c. 502-09-88 and 504-40-88). Differences of opinion in this area, both in regard to the range of goods produced in Canada and the degree of substitutability of like-named products as between different models or makes of turbine, have already been referred to by the Board in its report to the Minister on tariff item 44210-1 (see Reference No. 157. Phase I, pp. 184-8). Evidence reviewed by the Board in connection with this latter item, together with information provided by Westinghouse Canada Inc. and Solar Turbines Canada in supplementary post-hearing submissions on items 44205-1 and 97056-1, have provided the main bases for the made-in-Canada determinations listed above against goods falling under c.c. 502-09-88 and 502-40-88.

Tariff Proposals

Except where otherwise indicated, the following proposals are made primarily in the context of tariff item 44205-1.

A group of steel producers - The Algoma Steel Corporation Ltd., Atlas Steels (a division of Rio Algom Ltd.), Dofasco Inc., Sydney Steel Corporation, and Stelco Inc. - advocates:

- (i) an eo nomine listing of either the "made" or "not made" goods, "depending on the practicalities of individual situations";
- (ii) "inclusion of some type of 'safety net' - perhaps in the form of duty remission - to provide for possible future eventualities where dutiable goods must be imported because they are not made or available in Canada".

Foster Wheeler Limited, designers, manufacturers and contractors of St. Catharines, Ont., conclude:

- (i) "not made" goods should not be dutiable;
- (ii) such goods could enter free under eo nomine listings regardless of end use;

(iii) alternatively, where (ii) may seem inappropriate, use could be made of the "availability approach" (although its implementation is regarded as "not favourable" to importers of "specialty items").

The Ball and Roller Bearing Manufacturers' Association of Canada (BARBMAC) representing Canadian Timken, Limited of St. Thomas, Ont., FAG Bearings Limited of Stratford, Ont., NTN Bearing Mfg Canada (a division of NTN Bearing Corporation of Canada Limited) of Mississauga, Ont., and Torrington Inc. of Bedford, Que., favours:

- (i) duty-free entry for "not made" materials and parts used in the manufacture of ball and roller bearings;
- (ii) retention of tariff item 44205-1 in its existing form (an initial proposal for an eo nomine listing of certain specified "not made" materials and parts being withdrawn).

In an individual, post-hearing communication, Canadian Timken, Limited (one of the members of BARBMAC) indicates that it is agreeable to:

- (i) continuation of the existing nomenclature of tariff item 44205-1;
- (ii) alternatively, an eo nomine listing of "not made" materials and parts used in the manufacture of ball and roller bearings, especially if provision could be made for steel cages (presently provided for in duty-free tariff item 42730-1).

Cooper Energy Services Ltd. of Mississauga, Ont., whose interest in item 44205-1 pertains to parts for use in the manufacture of gas turbines and diesel engines, claims:

- (i) "there are literally hundreds" of individual part numbers specified in "made/not made" customs rulings issued to the company respecting goods encompassed by tariff item 44205-1;
- (ii) it is not possible to convert such rulings, expressed in terms of part numbers to eo nomine descriptions of broad groupings of "parts";
- (iii) "listing of specific part numbers for specific models of products made by named Canadian manufacturers does not appear to be acceptable in the drafting of a tariff item - and even if it were would not provide for changing requirements";
- (iv) maintenance of the existing tariff provision of item 44205-1 would provide the most appropriate tariff solution.

Rolls-Royce (Canada) Limited of Lachine, Que., which relies heavily upon imported parts in its manufacture of industrial gas turbines, favours:

- (i) continued duty-free entry for turbine parts of a class or kind not made in Canada;
- (ii) retention of tariff item 44205-1 in its present wording.

Canadian General Electric Company Limited of Toronto, Ont., which imports a variety of materials and parts for use in the manufacture of large steam turbines, advocates:

- (i) continuation of duty-free status for materials and parts imported under tariff item 44205-1;
- (ii) retention of the present wording of item 44205-1, since "it would be quite unrealistic and impracticable ... for the Board to attempt to list all of the specific articles and goods which presently fall within the scope of the item";
- (iii) consistency with respect to the Board's recommendations in relation to tariff item 44210-1. [This item, which was reviewed by the Board in its report on Phase I of Reference No. 157, presently provides for the free entry of certain specified "not made" components when imported for use in the repair or remanufacture of gas or steam turbines and parts thereof. In its report, which was published subsequent to the hearing on item 44205-1, the Board proposed retention of tariff item 44210-1, the clause "of a class or kind not made in Canada" being deleted].
- (iv) comparability between the tariff treatment of parts imported for spares or for repair purposes and that accorded to identical parts when imported for use as original equipment. [Gas and steam turbine parts for repair or replacement purposes are not presently entitled to entry under tariff item 44205-1, as the item provides only for "materials, including all parts ... when imported for use in the manufacture of goods ..."].

Solar Turbines Canada Ltd., which uses some imported parts in its production of gas turbines at its plant in Edmonton, Alta., favours:

- (i) duty-free access for "not made" turbine components;
- (ii) customs administration on the basis of "type or size" rather than the broader concept of "class or kind";
- (iii) the added "refund capability" provided by drawback item 97056-1, notably where goods imported for general purposes are sourced for the relevant preferred end uses. However, while "there is one year longer in the drawback provision than there is in the refund procedures", it is doubted whether item 97056-1 is "being used very often".

In a submission amplified and reformulated subsequent to the public hearing, Westinghouse Canada Inc. of Hamilton, Ont., which manufactures both steam and gas turbines, proposes:

- (i) a general revision of tariff provisions applying to turbines and parts thereof;
- (ii) modifying the nomenclature of tariff item 42805-3, to allow the classification thereunder of all parts, whether "complete" or not;
- (iii) amalgamation of the end-use provisions of tariff item 44210-1 (encompassing certain specified "not made" components when imported for use in the

repair or remanufacture of gas or steam turbines and parts thereof) with those of tariff item 44205-1 (covering all "not made" metallic materials, including parts, used in the manufacture of turbines);

(iv) an eo nomine listing of "not made" parts;

(v) maintenance of the existing "made/not made" tariff arrangement with respect to materials other than parts, on account of the impracticalities of developing an eo nomine approach in regard to such goods;

(vi) the following specific tariff provisions:

42805-3 Turbines, steam or gas and parts thereof n.o.p.

Other than the following:

<u>BP</u>	<u>MFN</u>	<u>GEN</u>	<u>GP</u>	<u>UK/IRE</u>
15 p.c.	15 p.c.	30 p.c.	10 p.c.	15 p.c.

42805-4 The following parts when imported by a manufacturer, for use in the manufacture, remanufacture or repair, of gas turbines and/or steam turbines and/or subassemblies thereof:

- Rough-machined rotor/shaft/spindle forgings, vertically heat treated and/or heat indication tested;
- Rough-machined disc/wheel and torque tube forgings for gas turbines and/or subassemblies thereof;
- Fluid film journal and thrust bearings;
- Forged and cast blades/buckets for rotating elements of gas turbines and/or subassemblies thereof;
- Blades/buckets larger than 4" for rotating elements of steam turbines;
- Castings for stationary blades/vanes/nozzles and/or multiples thereof;
- Actuators, servomotors and governors;
- Trip and throttle valves;
- Sensing and trip devices for speed, temperature, pressure and vibration

<u>BP</u>	<u>MFN</u>	<u>GEN</u>	<u>GP</u>	<u>UK/IRE</u>
Free	Free	Free	Free	Free

42805-5 Materials, wholly or in chief part of metal, of a class or kind not made in Canada when imported by a manufacturer for use in the manufacture, remanufacture or repair of gas and steam turbines

<u>BP</u>	<u>MFN</u>	<u>GEN</u>	<u>GP</u>	<u>UK/IRE</u>
Free	Free	Free	Free	Free

Staff Appraisal

1. It is clear that the information assembled with respect to the goods eligible for entry under tariff item 44205-1 is far from complete, both in regard to the range of products represented and in relation to their made-in-Canada status.

2. The made-in-Canada status of a high proportion of the relevant classes is "uncertain". Unless evidence of Canadian production is forthcoming, the goods encompassed by such classes will have to be regarded as "not made" and afforded duty-free entry."

3. Comparatively few of the commodity classes listed have been designated as "made".

4. Substantial portions of the duty-free coverage presently provided by item 44205-1 is now, or subsequently will be, duplicated by other provisions in the Customs Tariff.

5. Articles and materials for goods of tariff item 42723-1 are provided for in item 44200-1 without the "not made" restriction; the reference in item 44205-1 is redundant.

6. The references to tariff items 44037-1 and 44040-1 seem redundant, as the latter covers "materials and articles for the manufacture or repair of the engines provided for in item 44037-1", but without a "not made in Canada" restriction. References to these two items could be deleted.

7. At present, or on completion of the MTN reductions, goods under items 42726-1, 42732-1, 42733-1, 42741-1 and 44705-1 will be free of duty without any "not made" qualification. Actual or potential Canadian manufacturers of such goods would benefit from similar free entry without restrictions. These items (or their successor items) might be added to the provisions of item 44200-1 ("articles and materials which enter into the cost of manufacture of the goods enumerated in tariff items ...").

8. If the Board's recommendations with respect to diesel engines, studied in Phase I of the enquiry (see Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Phase I, 1982, pp. 176, 264) are implemented, all "not made" diesel engines will enter free of duty, as will their parts. Unless it is sought to give future Canadian manufacturers potential access free of duty to materials to make such engines, it would seem expedient to restrict successor item 44205-1 to goods relevant to recommended dutiable item 42815-1 (applying to the range of diesel engines presently made in Canada, and parts thereof), deleting references to items 42816-1 and 42817-1.

9. If the Board's recommendations with respect to diesel engines are implemented, "not made" diesel engines (notably, c.c. 502-18-39, 502-18-49, and 502-18-59, listed under "Commodity Classes", subsection 2n, supra) will be free of duty, and require no further consideration in the present context.

10. Since the parts of goods of tariff item 41100-1 (pertaining to sawing and logging operations) are eligible for duty remission when not available from production in Canada, reference to this item could reasonably be deleted from item 44205-1 if the associated materials were to be reclassified (in a new item or otherwise) elsewhere.

11. With respect to tariff item 44205-1, one possible tariff solution would be to retain a scaled-down version of the existing provisions, eliminating the redundancies noted above. Because of the very wide range of goods represented, the case for continuing with the present "made/not made" basis of customs administration is probably stronger than for any of the other tariff items reviewed in this phase of the inquiry.

12. Another possibility, after eliminating the redundancies noted above, would be to establish a dutiable item, naming all pertinent goods definitely known to be "made", and making other goods eligible for duty remission when not available from production in Canada.

13. Alternatively, a series of eo nomine provisions specifying the "made" goods (including a separate item for "materials") might be developed on the basis of the groupings adopted under the commodity class listings.

14. In view of the lack of interest indicated in drawback item 97056-1, and its apparent limited marginal usefulness, consideration might be given to its deletion.

TARIFF ITEM 44305-1

Existing Tariff Provisions

Ovens, of a class or kind not made in Canada, for use in commercial bakeries; complete parts of the foregoing

1/1/83	Free	3.8 p.c.	30 p.c.	Free	Free
1/1/84		2.8 p.c.			
1/1/87		Free			

The coverage of the item is clear from its wording. It will be noted that complete parts of "not made" ovens are included in this item regardless of their own made-in-Canada status, which will not, therefore, be further studied by the Board. Free entry under the M.F.N. Tariff was bound in the MTN.

When of a class or kind made in Canada, or in the absence of this item, the ovens and complete parts thereof would be classified under tariff item 44300-1 ("apparatus, and parts thereof, for cooking ..."), with a M.F.N. bound rate of 11.3 p.c.

Imports

After rising to \$3.7 million in 1979, the value of imports under tariff item 44305-1 fell to \$1.6 million in 1981, subsequently recovering to \$3.1 million in 1982.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

A published ruling on the made-in-Canada status of ovens appears in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix C.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>		<u>Provisional Made-in-Canada Status</u>
	Ovens, for use in commercial bakeries; complete parts of the foregoing	
505-39-20	Oven, bakery, industrial type, electric	Made
505-39-40	Oven, bakery, industrial type, non-electric	Made

Tariff Proposals

No representations have been made with respect to tariff item 44305-1.

Staff Appraisal

1. Although both relevant commodity classes have been reported to the Board as being applicable to "made" goods, the aforementioned published ruling states that "travelling tray ovens, single or double lap" are "of a class or kind not made in Canada". The Board, however, has no definite information as to whether these ovens are bakery ovens or as to the appropriate commodity class for them.

2. The significant value of imports under the item would suggest that the relevant commodity classes are broad enough to encompass several classes or kinds of goods, some of which are not made in Canada.

3. In the absence of further information, however, the Board will have no alternative but to accept the made-in-Canada status of goods as indicated above. This would suggest deletion of the item, with the goods being allowed to fall under tariff item 44300-1.

TARIFF ITEM 44569-1

Existing Tariff Provisions

Steatite ceramic parts, when of types or sizes not made in
Canada, for use in the manufacture of resistors

Free Free 20 p.c. Free Free

This is a temporary tariff item, originally created in February 1971, under the authority of section 273 of the Customs Act, and now scheduled to expire on June 30, 1983, unless further renewed. The item provides for "not made" parts of a named ceramic material for use in the production of a specified product (resistors). The item differs from most of those under study in the present reference in that it defines "not made" goods in terms of "types or sizes" rather than "class or kind". While item 44569-1 is not itself bound under GATT, the goods covered thereby would be subject to the bindings applicable to the parent items (see below).

When made in Canada, or if the item should be deleted or allowed to lapse, the steatite ceramic parts would be covered by the parent items, namely 44518-1 (as complete parts of electric insulators) and 44533-1 (as parts of radio and television apparatus). Both of these items have a M.F.N. bound rate of 9.2 p.c.

Imports

The value of imports under this item, which averaged \$278,000 per annum during the years 1978-80, fell slightly to \$257,000 in 1981.

Provisional Made-in-Canada Status of Goods

(a) Published rulings

There are no published rulings relating to steatite ceramic parts in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix D.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>		<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Steatite ceramic parts for use in the manufacture of resistors		
495-05-90	Insulators, electric, porcelain nes	Not Made
495-09-30	Insulators, electric, ceramic, except porcelain	Not Made
639-15-88	Resistors, electric, parts of	Not Made

Tariff Proposals

No representations have been made with respect to tariff item 44569-1.

Staff Appraisal

1. The nomenclature of this item could be retained without the qualifying clause "when of types or sizes not made in Canada".

2. Alternatively, as the item is not bound, and imports are relatively small, the item might well be allowed to expire.

Existing Tariff Provisions

Articles of iron, steel or nickel, or of which iron, steel or nickel are the component materials of chief value, of a class or kind not made in Canada, when imported by manufacturers of electric storage batteries for use exclusively in the manufacture of such storage batteries, in their own factories

1/1/83	8.4 p.c.	8.4 p.c.	20 p.c.	5.5 p.c.	8.4 p.c.
1/1/84	8 p.c.	8 p.c.		5 p.c.	8 p.c.
1/1/87	6.8 p.c.	6.8 p.c.		4.5 p.c.*	6.8 p.c.

* Assuming that the GPT remains in effect, with rates calculated as at present.

The coverage of the item is clear from its wording, both as to the goods covered (any article of which iron, steel or nickel is the component material of chief value, of a class or kind not made in Canada), the end use (the manufacture of electric storage batteries), and the importers (manufacturers of such batteries, for their own use). The M.F.N. rate was bound at 6.8 p.c. in the MTN.

If ruled made in Canada, or in the absence of the item, articles considered to be "complete parts" of batteries would fall under item 44512-1 or 44526-1, dependent upon the size of the battery. Other articles would generally be classified according to the component material of chief value - if iron or steel, under item 44603-1, if nickel, under 71100-1. All the items cited in this paragraph have bound rates of 10.2 p.c.

Imports

The annual value of imports under tariff item 44643-1 has remained comparatively small, averaging \$645,000 during the years 1978-80, and totalling \$593,000 in 1981.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix D relating to these articles for use in the manufacture of batteries.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Articles of iron, steel, or nickel, or of which iron, steel or nickel are the component materials of chief value, when imported by manufacturers of electric storage batteries for use exclusively in the manufacture of such storage batteries, in their own factories	
693-95-10 Batteries, parts of nes	Not Made

Tariff Proposals

No submissions have been received with respect to tariff item 44643-1.

Staff Appraisal

1. The nomenclature of item 44643-1 could be retained without the qualifying clause "of a class or kind not made in Canada".
2. However, the apparent lack of interest in this item and the comparatively low value of imports thereunder, point to its deletion as the neater tariff solution.

TARIFF ITEM 46400-1

Existing Tariff Provisions

Steel dies, of a class or kind not made in Canada, valued at not less than one thousand dollars each, for use exclusively in stamping metal sheets or metal plates

Such dies shall be exported from Canada under Customs supervision within three months from the date of import entry

Free Free Free Free Free

The coverage and other requirements of the item are clear from its wording. Free entry under the M.F.N. Tariff was bound in the MTN.

When of a class or kind made in Canada, or in the absence of this item, the dies would principally fall into tariff item 42700-1, as attachments, accessories or tools for use with machines, with a M.F.N. bound rate of 9.2 p.c. subject to the Machinery Duty Remission Program.

Imports

Average annual imports under this item amounted to approximately \$12,000 during the years 1979-81. There were no imports in 1978.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no relevant published rulings in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1.

(b) Commodity Classes

The following listing, based on Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Steel dies, valued at not less than one thousand dollars each, for use exclusively in stamping metal sheets or metal plates, to be exported from Canada under Customs supervision within three months from the date of import entry	
523-87-35 Die, metalworking, stamping	Made

Tariff Proposals

No representations have been made with respect to tariff item 46400-1.

Staff Appraisal

1. In view of the lack of use of tariff item 46400-1, and the failure to uncover any "not made" classes of pertinent products, there would appear to be no sound reason for continuing to make special provision for the goods at issue, and the item could, therefore, be deleted from the Customs Tariff.

TARIFF ITEM 47605-1 EX.

Existing Tariff Provisions

Operating room lights designed to minimize shadow, not including bulbs, of a class or kind not made in Canada; chairs and tables for surgical operating purposes; infant incubators; infant and patient medical-alert or identification devices including beads, tapes and ribbons of any material, cases therefor and equipment for their application; electrocardiographs, paper and sensitized film for use therein; unexposed instant film; apparatus for sterilizing purposes, including bedpan washer-sterilizers but not including washing nor laundry machines; parts of all the foregoing; electroencephalographic paper. All for the use of any public hospital, under such regulations as the Minister may prescribe

Free Free Free Free Free

The relevant provisions of the item are underlined. With the exception of bulbs, parts of "not made" goods are admissible under the item regardless of their own made-in-Canada status. The end-use limitation is set forth in the last clause. The Minister does not appear to have prescribed any relevant regulations, as provided for in the last sentence of the item. Although free entry continues to be accorded under this tariff item, the M.F.N. rate was bound at 9.2 p.c. in the MTN.

When ruled made in Canada, or if the provision for operating room lights should be deleted from item 47605-1, such lights and complete parts thereof would fall under item 44500-1 with a M.F.N. bound rate of 11.3 p.c. Other parts would be dutiable according to their own material or nature, frequently under items with M.F.N. rates bound at 10.2 p.c.

Imports

The average annual value of goods imported under both the referred and non-referred provisions of tariff item 47605-1 in 1979-81 was \$6.8 million. The corresponding figure for c.c. 681-99-23 ("fixtures, lighting, operating room") - the most pertinent commodity class - \$16,900.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Although Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix D indicates that operating room lights designed to minimize shadow are "of a class or kind made in Canada", it is understood that fibre optic operating room lights are still held to be "not made" and, therefore, admissible under tariff item 47605-1.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under this tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Operating room lights designed to minimize shadow, not including bulbs; parts of the foregoing; all for the use of any public hospital, under such regulations as the Minister may prescribe	
681-99-23 Fixtures, lighting, operating room	Not Made

Tariff Proposals

No submissions have been received with respect to tariff item 47605-1 Ex.

Staff Appraisal

1. Since the ruling by Revenue Canada indicates that the goods at issue are domestically manufactured, and imports are minimal, the relevant portion of the tariff item might be deleted.

2. Alternatively, a provision for "fibre optic operating room lights" might be substituted for the present product description, the words "of a class or kind not made in Canada" also being eliminated.

TARIFF ITEM 47615-1

Existing Tariff Provisions

Prepared surgical sutures, of a class or kind not made in
Canada

Free Free Free Free Free

The wording of this item is self-explanatory. Free entry under the M.F.N. Tariff was bound in the MTN.

When of a class or kind made in Canada, or in the absence of the item, sutures would be classified according to their material or nature. Among the items believed to be applicable are the following:

<u>Goods</u>	<u>Tariff Item</u>	<u>M.F.N. Bound Rate</u>
Sutures with needles, for hospitals (as surgical instruments)	47600-1	9.2 p.c.*
Sutures, catgut	71100-1	10.2 p.c.
Sutures, silver or stainless steel (as wire)	40121-2 or 40122-1	8 p.c. 10.2 p.c.
Sutures with steel needles, not for hospitals	44603-1 or 71100-1	10.2 p.c. 10.2 p.c.

* The effective rate under this item is Free.

While item 47600-1 is not restricted to hospitals, it is understood that sutures with needles are only considered to be "surgical instruments", and admissible under the item, when imported by hospitals. Parts and "materials and articles for use exclusively in the manufacture of the goods enumerated in tariff item 47600-1" may qualify for free entry under item 47900-1.

Imports

The value of imports under this item averaged \$5.6 million per annum during the years 1978-80, rising to over \$10.6 million in 1981 and to \$14.0 million in 1982.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no relevant published rulings in Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix F.

(b) Commodity Classes

The following listing based upon Table 4 of Background No. 9 sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Prepared surgical sutures	
881-20-11 Sutures & sutures with needles, packaged	Made

Commodity classes 881-20-20 ("suture needles, disposable") and 881-20-90 ("suture materials, nes"), formerly included in Table 4, have been deleted as item 47615-1 does not make any separate provision for "parts" or "materials". It should be noted that goods classified to c.c. 881-20-90 accounted for 56 per cent of all imports under this tariff item in 1981. Cyanamid Canada Inc. has commented upon the lack of any official definition of the words "prepared" and "surgical", as applying to sutures in the present context.

Tariff Proposals

Cyanamid Canada Inc., Willowdale, Ont., which manufactures surgical sutures from imported materials at its Baie d'Urfe, Que., facility, favours:

- (i) deletion of tariff item 47615-1 in its entirety;
- (ii) naming sutures in duty-free item 47600-1, as follows:

X-ray apparatus and X-ray film; microscopes, illuminating devices and stands for use therewith; the following surgical dental, veterinary and diagnostic articles: sutures; instruments; sterilizers; cobalt-therapy units; anaesthesia, surgical suction and oxygen administering apparatus including motive power and wall outlets but not piping systems. Parts of all the foregoing; electric light lamps designed for uses with all the foregoing; portable cases and containers for all the foregoing.

- (iii) by virtue of (ii) above, ensuring that all components and materials used in the production of surgical sutures receive duty-free treatment, either under the proposed amended item 47600-1 or under item 47900-1, which provides duty-free entry for "materials and articles for use exclusively in the manufacture of the goods enumerated in tariff items 47600-1 ...".

Ethicon Sutures Ltd. of Peterborough, Ont., which uses imported materials in the manufacture of surgical sutures, proposes:

- (i) expanding the coverage of goods encompassed by tariff item 47615-1 to include, not only prepared surgical sutures, but also ligatures, stapling devices and ligaclip instruments for surgical, dental, veterinary and diagnostic use, together with any materials and articles used exclusively in the manufacture of such goods;
- (ii) providing duty-free entry for the aforementioned goods, irrespective of whether or not they are of classes or kinds made in Canada, it being further noted that certain of the goods proposed for inclusion under tariff item 47615-1 are already provided with duty-free access under items 47600-1 and 47900-1;
- (iii) an item with the following nomenclature:
 - Prepared sutures, ligatures, stapling devices and ligaclip instruments for surgical, dental, veterinary and diagnostic uses, and materials and articles for use exclusively in the manufacture thereof;
- (iv) alternatively - should the existing item (apart from the "not made in Canada" clause) be retained - adding item 47615-1 to those listed in item 47900-1, thereby ensuring the duty-free entry of necessary materials;
- (v) as a further possibility, making specific provision in an amended version of existing item 47615-1 for "components and materials used in the manufacture of sutures", it being opined that there is presently no domestic manufacture of the pertinent needles and other material inputs.

Staff Appraisal

1. There appears to be some degree of uncertainty regarding the exact nature of the goods which may properly qualify for entry under tariff item 47615-1 and the criteria whereby these may be distinguished from goods classifiable under item 47600-1 and other related provisions.
2. A review of the pertinent commodity class data, supported by the testimony of interested parties, point to the significant application of item 47615-1 for the entry of materials and components for use in the manufacture of sutures, which seemingly should be classified elsewhere according to their own material or nature.
3. The continued duty-free entry of such materials and components (rather than protection against competing finished products) is seen as constituting the prime concern of Canadian suture manufacturers.
4. It does not appear rational to provide materials for use in the manufacture of "made" sutures with duty-free entry under tariff item 47900-1, while failing to make proper similar provision for materials for use in the production of sutures produced in Canada, but apparently not ruled "made".

5. The aforementioned anomalies could most easily be resolved by deleting item 47615-1 from the Customs Tariff and by naming sutures in existing duty-free item 47600-1, as proposed by Cyanamid Canada Inc.

6. The principal tariff proposal advanced by Ethicon Sutures Ltd. would significantly broaden the product coverage of the tariff item under review, and for this reason is regarded as not constituting as acceptable a solution as that set out above.

TARIFF ITEM 68200-1 EX.

Existing Tariff Provisions

Fish hooks, for deep-sea or lake fishing, not smaller in size than number 2.0;
Fishing nets and nettings of all kinds;
Lures, jiggers and artificial baits;
Metal panel devices for use in keeping nets open;
Metal swivels, of a class or kind not made in Canada;
Net and line floats of any material except wood;
Specially designed needles of a class or kind not made in Canada for use in repairing fish nets;
Threads, twines, marlines, fishing lines, rope and cordage, not exceeding one and one-half inches in circumference;
Oyster spat collectors;
All the foregoing for use in commercial fishing, or in the commercial harvesting of marine plants, under such regulations as the Minister may prescribe;
Carapace measures of any material

Free Free Free Free Free

The Board is concerned only with the underlined portions of the item, which are self-explanatory. There are no published relevant Ministerial regulations. Free entry under the M.F.N. Tariff is bound under GATT.

When of a class or kind made in Canada, or in the absence of this item, the metal swivels would fall under tariff item 44034-1, with a M.F.N. bound rate of 10.2 p.c. The needles would fall under item 45110-1 (as "needles, of any material or kind, n.o.p."), with a M.F.N. bound rate of 11.3 p.c.

Imports

The value of imports under both the referred and non-referred portions of item 68200-1 amounted to \$31.2 million in 1979, falling to \$20.4 million in 1980 and \$16.4 million in 1981. Separate figures with respect to the goods of concern to the Board are not available, although a review of pertinent commodity class data reveals imports valued at \$33,000, \$38,000 and \$44,000 respectively under c.c. 529-91-22 ("swivels, commercial fishing").

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D-11-1-1, Appendix F contains a ruling to the effect that "specially designed needles for use in repairing fish nets" are of a class or kind made in Canada, with effect from August 8, 1962.

(b) Commodity Classes

The following listing, based upon Table 4, Background No. 9, sets out the provisional made-in-Canada status of goods falling under the relevant portion of the aforementioned tariff item.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
For use in commercial fishing, or in the commercial harvesting of marine plants, under such regulations as the Minister may prescribe:	
Metal swivels	
529-91-22 Swivels, commercial fishing	Not Made
Specially designed needles for use in repairing fish nets	Made*

* Indicates a change from Table 4.

The "made" status now accorded to specially designed net needles reflects a claim by Columbia Plastics Ltd. of Vancouver, B.C., to manufacture such needles, as well as the ruling of Revenue Canada, referred to above. Commodity class 529-91-89 ("commercial fishing industry machinery/equipment nes"), formerly included in Table 4, has now been deleted. Most, if not all, of the goods recorded as entering under this class probably pertain to the non-referred portions of the item. In any event, this commodity description is too broad to be of use in the present context.

Tariff Proposals

No representations have been made with respect to tariff item 68200-1 Ex.

Staff Appraisal

1. It is assumed, on the basis of the foregoing, that the "metal swivels" encompassed by the item are not made in Canada, while the "specially designed needles" are domestically produced.

2. The provision relating to metal swivels could be retained, the clause "of a class or kind not made in Canada" being deleted. The provision pertaining to needles could be struck out, the goods being accommodated elsewhere in the Customs Tariff.

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE II

STAFF APPRAISAL
MACHINERY, MATERIALS, PARTS AND
EQUIPMENT USED IN THE CONSTRUCTION
OR EQUIPMENT OF AIRCRAFT AND SHIPS

SEPTEMBER, 1983

TABLE OF CONTENTS

	<u>Page</u>
TARIFF ITEM 44022-1	
Existing Tariff Provisions	33
Imports	34
Provisional Made-in-Canada Status of Goods	35
Tariff Proposals	40
Staff Appraisal	44
TARIFF ITEM 44059-1	
Existing Tariff Provisions	46
Imports	48
Provisional Made-in-Canada Status of Goods	48
Tariff Proposals	55
Staff Appraisal	56
TARIFF ITEM 97053-1	
Existing Tariff Provisions	58
Provisional Made-in-Canada Status of Goods	59
Tariff Proposals	59
Staff Appraisal	60
TARIFF ITEM 97071-1	
Existing Tariff Provisions	62
Provisional Made-in-Canada Status of Goods	62
Tariff Proposals	63
Staff Appraisal	63

TARIFF ITEM 44022-1

Existing Tariff Provisions

At the date of reference, this tariff item provided for:

Manufactures of iron, brass or other metal, of a class or kind not made in Canada, for use exclusively in the construction or equipment of ships or vessels, under regulations prescribed by the Minister

Free Free Free Free Free

With effect from June 30, 1983, by Ways and Means Resolution, the item has been amended to:

Manufactures of iron, brass or other metal, of a class or kind not made in Canada, for use exclusively in the construction or equipment of the goods enumerated in tariff items 44000-1 to 44009-1 inclusive, under regulations prescribed by the Minister

Free Free Free Free Free

Items 44000-1 to 44009-1, which share a common heading, are worded as follows:

Ships, vessels, dredges, scows, yachts, boats and other water borne craft and floating, submersible or semi-submersible structures such as docks, caissons, pontoons, coffer-dams, production platforms, drilling ships, drilling barges, drilling rigs, jack-up drilling platforms and other drilling platforms; combinations of all of the foregoing; all of the foregoing whether or not self-propelled, assembled or complete:

- 44000-1 Other than the following
- 44001-1 Drilling ships, drilling barges, drilling rigs, jack-up drilling platforms and other drilling platforms; combinations thereof
- 44002-1 Ships and other vessels, for use in the commercial fishing industry, exceeding 30.5 metres registered length
- 44003-1 Boats, open, including sail boats, skiffs and canoes; yachts and pleasure boats, not exceeding 9.2 metres in length overall
- 44005-1 Yachts and pleasure boats, exceeding 9.2 metres in length overall
- 44006-1 Life boats specially imported by societies to encourage the saving of human life
- 44009-1 Racing shells, when imported by amateur rowing clubs for use exclusively by such clubs

The Governor in Council, on the recommendation of the Minister of Finance may, by Order, make regulations prescribing the terms and conditions under which all or a portion of the duty on goods imported under tariff items 44000-1 to 44009-1 inclusive may be remitted.

The principal effect of the changes is to bring within the ambit of tariff item 44022-1, metallic manufactures used in the construction, not only of ships or vessels, but also of other floating, submersible or semi-submersible structures, such as offshore drilling rigs.

Preferential treatment for metallic manufactures of a class or kind not made in Canada, for the equipment of ships or vessels, dates back to 1906. The broad range of goods covered is apparent from the wording. There do not appear to be any relevant regulations prescribed by the Minister. Free entry under the M.F.N. Tariff was bound in the MTN.

A few metallic manufactures for the goods of tariff items 44000-1 to 44009-1 are specifically provided for in other tariff items - viz:

		M.F.N. Bound Rate
44012-1	Anchors under 40 lbs.	9.2 p.c.
44013-1	Anchors, 40 lbs. or over	Free
44019-1	Iron or steel masts, parts thereof	
	Iron or steel shapes (specified)	
	Cable chain	Free
44025-1	Diesel engines not made in Canada	Free
44028-1	Chronometers and compasses, parts thereof, not made in Canada	Free
44037-1	Engines and parts thereof, n.o.p., for commercial fishing vessels	Free
44040-1	Materials and articles for goods of item 44037-1	Free

Apart from the foregoing, metallic manufactures for use exclusively in the construction or equipment of the relevant goods, when made in Canada, are classified elsewhere in the Customs Tariff according to their own material or nature. Many of these would fall under items providing for unspecified manufactures of the metal involved, usually with a bound rate of 10.2 p.c.

The discussion which follows is principally in terms of item 44022-1 as it existed prior to June 30, 1983.

Imports

The annual value of imports under tariff item 44022-1 has shown a steady upward trend. It averaged \$145.7 million in 1978-80, rising to \$178.3 million in 1981. The latter figure represented a doubling since 1976.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

(i) Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-18 states that Loran C radio navigation receivers, previously admissible under item 44022-1, are now considered to be of a class or kind made in Canada. These receivers are henceforth to be entered under item 44533-1, even in cases where they are for use in the construction or equipment of ships or vessels.

(ii) Departmental Memorandum D10-8-20 provides that marine sewage treatment units are no longer classifiable under item 44022-1, as such units are now made in Canada. Future entry is to be under item 42700-1.

(iii) Departmental Memorandum D10-8-22 notes that one and two-burner alcohol stoves suitable for marine use are of a class or kind made in Canada, and are consequently to be classified under item 44300-1.

(iv) Departmental Memorandum D11-1-1 lists various other "made/not made in Canada" rulings covering items of transportation equipment applicable to ships or vessels.

(b) Commodity Classes

The following listing, based upon a modified version of the information contained in Background No. 10, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Manufactures of iron, brass, or other metal for use exclusively in the construction or equipment of ships or vessels	
451-49-90 Aluminum/aluminum alloy fabricated materials, nes	Made*
465-99-60 Marine hardware	
- boat hooks, non-extendable; cleats, die-cast; oar lock horns and sockets; stainless steel guides; step plates; transom pulleys; ventilators	Made*
- locks and bars for boat doors	Not Made*
- other	Uncertain*
502-29-10 Engines, gasoline, nes, parts of, nes	Not Made
502-99-40 Motors, hydraulic, radial piston, gen purpose	Not Made*
502-99-44 Motors, hydraulic, axial piston, gen purpose	Not Made*
502-99-45 Motors, hydraulic, gear type, gen purpose	Not Made*
502-99-46 Motors, hydraulic, gyrator type, gen purpose	Not Made*
502-99-49 Motors, hydraulic, general purpose nes	Not Made
502-99-88 Engines, general purpose nes, parts of, nes	Not Made
503-15-32 Generator sets, diesel engine, ac, 251-1,000 kw	
- 251 kw to 499 kw	Not Made
- other	Made

504-40-20	Gear unit, single reduction, except spiral bevel	Not Made
504-40-30	Gear unit, double reduction, except spiral bevel	Not Made
504-44-70	Gear unit, power transmission, except reducer/ increaser	Not Made
504-85-20	Pump, hyd, vane type, power trans	Not Made*
504-85-30	Pump, hyd, gear type, power trans	Not Made*
504-85-40	Pump, hyd, axial piston type, power trans	Not Made*
504-85-50	Pump, hyd, radial piston type, power trans	Not Made*
504-85-88	Pump, hyd, power transmission, parts of	Not Made*
504-85-90	Pump, hyd, power transmission, nes	Not Made*
504-87-19	Valves, hyd, elec actuated, power trans, nes	Not Made*
504-87-20	Valves, hyd, electro-hyd oper, power trans	Not Made*
504-87-25	Valves, hyd, solenoid actuated, power trans	Not Made*
504-87-35	Valves, hyd, foot operated, power trans	Not Made*
504-87-39	Valves, hyd, mech actuated, power trans, nes	Not Made*
504-87-40	Valves, hyd, hand operated, power trans	Not Made*
504-87-50	Valves, hyd, cam operated, power trans	Not Made*
504-87-55	Valves hyd, cylinder operated, power trans	Not Made*
504-87-65	Valves, hyd, pilot operated, power trans	Not Made*
504-87-69	Valves, hyd, hyd actuated, power trans, nes	Not Made*
504-87-75	Servo valves, hydraulic, power transmission	Not Made*
504-87-88	Valves hyd, power trans, parts of	Not Made*
504-87-89	Valves, hydraulic, power transmission, nes	Not Made
504-89-20	Controls, hydraulic, power transmission	Not Made*
504-89-30	Power unit, hydraulic, power transmission	Not Made*
504-89-40	Torque convertor, power transmission	Not Made*
504-89-51	Accumulators, hydraulic, power transmission	Not Made*
504-89-52	Actuators, hydraulic, power transmission	
	- to 2,500,000 in. lb. of torque	Made
	- other	Not Made
504-89-53	Snubber, hydraulic, power transmission	Not Made*
504-89-88	Power transmission equipment, hyd, nes, parts	Not Made*
504-89-90	Power transmission equipment, hydraulic, nes	Not Made*
504-99-42	Clutches, power transmission	
	- over 18", double	Not Made*
	- other	Uncertain*
504-99-63	Power take-off, power transmission, except truck & tractor	Not Made
504-99-70	Shafts, power transmission, except camshafts/ drive shafts	Made
504-99-89	Power transmission equipment, nes	Not Made
508-50-44	Pump, rotary screw type, power	
	- twin screw rotary pumps with capacity to 4,000 i.p.m. and 500 p.s.i.g.	Made
	- other	Not Made
509-40-30	Heat exchanger, finned tube type, industrial	Made
513-15-46	Crane, for use on ships, boats or barges	Made
513-32-19	Winch, marine nes	
	- electrical thyristor driven, trawl type	Uncertain*
	- other	Made
513-36-79	Winch, marine, parts of, nes	Made
521-39-28	Dredging machinery, nes, parts of	Not Made
529-91-88	Commercial fishing industry machinery/equipment nes, parts	
	- parts for fish gutting machines	Made
	- other	Not Made
592-19-10	Engines, inboard-outboard, propulsion units	Not Made
592-40-20	Engines, gasoline, marine, except outboard	Made
592-40-88	Engines, other than diesel & outboard, marine, parts	
	- V-engine blocks	Not Made
	- other	Made
592-50-10	Outboard motors	
	- V-6 motors and racing motors	Not Made
	- other	Made
592-55-10	Outboard motors, parts of	Not Made
592-99-20	Drives, jet, marine c/w engine	Not Made

592-99-30	Boilers & turbines, marine - auxiliary steam generators, water tube type, fired, up to 200 hp; auxiliary steam generators, horizontal return tube, fired	Made
	- other	Not Made
592-99-40	Turbine, gasoline, marine	Not Made
592-99-88	Engines, nes, marine, parts of	Not Made
592-99-90	Engines, nes, marine	Not Made
593-39-21	Inboard-outboards, less engine	Not Made
593-39-28	Outboard portion parts of inboard-outboard	Not Made
593-39-31	Drives, jet, marine, less engine	Not Made
593-39-40	Propellers, marine, except outboard & inboard- outboard	Made
593-39-41	Propellers, marine outboard & inboard-outboard - above 9" in diameter	Made
	- other	Not Made
593-39-78	Ships, parts, attachments & accessories nes - bulkheading/lining/panelling and ceiling systems composed of steel, with insulating layers, cores or backing of other materials; doors and hatch- ways; electrical metal cabinetry; flagstuffs; handrails; wiring harnesses	Made*
	- bilge pumps; water pumps	Not Made*
	- other	Uncertain*
593-39-88	Boats, parts, attachments & accessories nes - bulkheading/lining/panelling and ceiling systems composed of steel, with insulating layers, cores or backing of other materials; doors and hatch- ways; electrical metal cabinetry; flagstuffs; handrails; wiring harnesses	Made*
	- bilge pumps; water pumps	Not Made*
	- other	Uncertain*
634-35-20	Sonar & echo sounding equipment - fish finding sonar	Uncertain*
	- other	Not Made
634-35-88	Sonar & echo sounding equipment parts, nes - for fish finding sonar	Made
	- other	Not Made
634-39-50	Radar, navigation, marine - military radar	Uncertain*
	- other	Not Made
634-39-88	Radar equipment, specific parts, nes - for military radar	Uncertain*
	- other	Not Made
634-39-90	Radar equipment, nes	Not Made
634-90-90	Transmitters-receivers, radio, nes	Made
634-99-19	Antennas, telecommunications, nes	Made
634-99-39	Radio navigation equipment, nes - Loran C radio navigation receivers	Made*
	- other	Not Made
634-99-89	Telecommunications equipment, nes	Not Made
639-23-20	Transformers, electronic type	Made*
639-24-20	Coils and inductors, electronic	Made*
639-30-20	Power supply, communication equipment	Made*
639-99-88	Electronic equipment components, parts of, nes	Uncertain*
639-99-90	Electronic equipment components, nes - electronic metal cabinetry	Made*
	- other	Uncertain*
662-19-40	Stoves, marine, alcohol - one and two-burner	Made*
	- other	Not Made*
681-73-20	Fixtures, lighting, boat, incandescent - bow lights and international navigation lights; combination bow lights and running lights; stern lights; dome or cabin lights; search lights, 4 1/2" and 6" in diameter	Made*
	- other	Uncertain*

683-79-90	Transformers, power, under 500 kva, nes	Made*
709-19-88	Navigation instruments, parts of, nes	Not Made
709-19-90	Navigation instruments & apparatus nes	Not Made
720-69-89	Sewage treatment systems, nes	
	- marine sewage treatment units	Made*
	- other	Not Made

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Compared with the original listing in Table 4, the list of relevant commodity classes has been considerably expanded, primarily as a result of representations made by interested parties and a further review of import data. Commodity class 451-49-90 ("aluminum/aluminum alloy fabricated materials, nes"), originally identified as being of relevance but not further considered, is now included, with a "made" designation, in the light of information provided by Reynolds Extrusion Company Limited of Richmond Hill, Ont. Similarly, c.c. 639-23-20 ("transformers, electronic type"), previously deleted, is now listed - together with c.c. 639-24-20 ("coils and inductors, electronic"), c.c. 639-30-20 ("power supply, communication equipment") and c.c. 683-79-90 ("transformers, power, under 500 kva, nes") - in order to accommodate the production interest of Hammond Manufacturing Company Limited of Guelph, Ont. Also in the same broad product area, the listed classes now include c.c. 639-99-88 ("electronic equipment components, parts of, nes") and c.c. 639-99-90 ("electronic equipment components, nes"), both omitted in error from the original listing of relevant product categories. At the instance of Hammond Manufacturing, electronic metal cabinetry is identified as a "made" element of the latter class. In response to representations by Aqua-Marine Mfg. Limited, c.c. 681-73-20 ("fixtures, lighting, boat, incandescent") is now included in the above listing and a range of marine lights manufactured by this firm is specified thereunder. As a result of representations made on behalf of Seaforth Fednav Limited, a substantial number of classes with "not made" designations have been added to the original Table 4 listing. These encompass clutches (c.c. 504-99-42) and a range of hydraulic equipment - viz: motors (c.c. 502-99-40 to 502-99-46), pumps (c.c. 504-85-20 to 504-85-90), valves (c.c. 504-87-19 to 504-87-88), controls and power transmissions (c.c. 504-89-20 to 504-89-51 and c.c. 504-89-53 to 504-89-90). On the other hand, classes relating to diesel and semi-diesel engines, and parts thereof, for use in the construction or equipment of ships or vessels, including those purportedly "not made" marine engines and engine parts favoured by Seaforth Fednav for inclusion under this item, have been excluded from the above listing, since such goods would seem more properly to be classifiable under tariff item 44025-1, reviewed by the Board earlier in this inquiry (see Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Phase I, pp. 166-76).

In addition to the above-mentioned changes, various modifications have been made to the original Table 4 listing, entailing the sub-division of some commodity classes and/or revisions to the provisional made-in-Canada designation of goods. In response to representations from Aqua Marine Mfg. Limited, various goods - viz: non-extendable boat hooks, die-cast cleats, oar lock horns and sockets, stainless steel guides, step plates, transom pulleys and ventilators - are now indicated as "made" under c.c. 465-99-60 ("marine hardware"). However, with respect to cleats, Woodard and Company Ltd. informs the Board that "the only deck cleats manufactured in Canada are of Zamack die cast and are for powerboats, say of a size up to 17 or 18 feet". Further or additional observations on this matter are invited. Also with respect to the same commodity class, locks and bars for boat doors are now identified as "not made" in light of the claim by Allied Enterprises Limited of St. Laurent, Que., that such goods have not been available from Canadian sources for several years. On the other hand, doors and hatchways, produced by the aforementioned company, have been included in a listing of "made" goods under c.c. 593-39-78 and 593-39-88 ("ships/boats, parts, attachments & accessories nes"). The other pertinent products now specified under these classes encompass bulkheading and ceiling systems (of interest to Joiner Systems JSC Canada Ltd. of St. Laurent, Que.), electrical metal cabinetry (produced by Hammond Manufacturing Company Limited), and flagstaffs, handrails and wiring harnesses (brought to the Board's attention by Aqua-Marine Mfg. Limited). On the "not made" side, bilge pumps and water pumps have been listed at the instance of Seaforth Fednav Limited.

Among other commodity classes, c.c. 634-99-39 ("radio navigation equipment, nes"), c.c. 662-19-40 ("stoves, marine, alcohol") and c.c. 720-69-89 ("sewage treatment systems, nes"), previously designated as "not made" in their entirety, are now considered to be partially "made" on the basis of the Departmental Memoranda referred to in the preceding section of this review. Finally, the made-in-Canada status of certain sub-classes of goods has been changed from "made" to "uncertain" in response to doubts expressed by the Fisheries Council of Canada respecting the manufacture of the pertinent goods in Canada. The relevant product categories are: c.c. 513-32-19 ("winch, marine, nes" - electrical thyristor driven, trawl type), c.c. 634-35-20 ("sonar & echo soundry equipment" - fish finding sonar), c.c. 634-39-50 ("radar, navigation, marine" - military radar) and c.c. 634-39-88 ("radar equipment, specific parts, nes" - for military radar). Further comment is invited.

Tariff Proposals

Litton Systems Canada Limited of Rexdale, Ont., which manufactures for the world market various shipboard systems using mostly imported parts and components, favours:

- (i) a continuation of duty-free status for goods entitled to entry under item 44022-1 if such goods are not available from Canadian production;
- (ii) an eo nomine listing of relevant products.

Aqua-Marine Mfg. Limited of Toronto, Ont., a manufacturer of goods used in the pleasure-craft industry, proposes:

- (i) an eo nomine listing of "made" goods, with a n.o.p. ("not otherwise provided for") item for "not made", "uncertain" and "unidentified" goods as well as new products coming onto the market;
- (ii) retention of duty on listed goods manufactured in Canada;
- (iii) "that tariff interpretation 'made in Canada' be replaced by the definition 'that the manufacturers seeking tariff protection shall be capable of producing 10% of the domestic consumption'".

Outboard Marine Limited of Peterborough, Ont., manufacturers of outboard motors and boat accessories, indicates agreement with the Tariff Board's [unimplemented] recommendations contained in its report on Reference No. 149. Pleasure Craft, (pp. 366-7, 377), for the preferential tariff treatment of "articles of any material" [as opposed to the "manufactures of iron, brass or other metal" of tariff item 44022-1] when imported for use as component parts in the construction or equipment of pleasure craft.

Seaforth Fednav Limited of Halifax, N.S., "one of the largest Canadian shipping companies", submits:

- (i) removal of the "class or kind made/not made" status of the item, without removal of the end-use provision, would not simplify Canadian Customs clearance procedure;
 - (ii) the existing requirement for end-use certificates "results in a very heavy non-productive paper burden which often overrides any savings in duty";
 - (iii) appropriate goods not available from Canadian manufacture, and unlikely to become so available in the future, should be specifically named in a duty-free non end-use tariff item;
 - (iv) if the foregoing is deemed unacceptable, the principles governing duty-free entry as outlined in Departmental Memorandum D10-11-10 (July 1, 1982) to be applied;
- [This Memorandum outlines the provisions of tariff items 69605-1 and 69605-2, which permit the duty-free entry into Canada of certain goods not available from domestic production for use by specified organizations, primarily those established for educational or research purposes. Provision is made whereby Canadian manufacturers can register pertinent goods as being available from production in Canada, and thus not eligible for free entry under the aforesaid items].

(iv) assuming implementation of (iii) above, registered goods to be approved and certified by the Canadian Coast Guard Design Approval Branch and at least one of the major marine classification societies (e.g. Lloyds, A.B.S., N.N.V.) before being recognized as suitable for marine application.

The British Canadian Trade Associates, a federally incorporated body whose principal interest is British-Canadian trade, making representations on behalf of Great Circle Trading Limited of Weston, Ont., importers and distributors of marine equipment for yachts and sailboats, favours:

- (i) retention of the "made/not made" tariff arrangement;
- (ii) alternatively, "eo nomine tariff items covering products that are made in Canada ... which would protect the small domestic industries which are providing some portion of the equipment that is used";
- (iii) broadening the coverage of tariff item 44022-1 to include manufactures of any material.

Revol Agencies Limited of Newcastle, Ont., petitioning on behalf of a cross-section of boat builders, equipment distributors and others engaged in the servicing or selling of marine products, with particular reference to sailboats, requests:

- (i) duty-free entry for components and parts used in the construction or equipment of pleasure craft;
- (ii) an extension in the coverage of tariff item 44022-1 to encompass manufactures of materials other than iron, brass or other metals.

[Revol also participated in a submission made jointly by several interested concerns (see below)].

The above submissions were presented for consideration at the group hearing. Subsequently, a number of other submissions have been received:

A submission made jointly on behalf of five members of the Recreational Marine Industry - viz: Revol Agencies Limited of Newcastle, Ont., (marine manufacturer's representative), C.S. Yachts Limited of Brampton, Ont., (boat builder), Kitsmar Canada Limited of Vancouver, B.C. (marine distributor), Jeffcoalt Marine Limited of Toronto, Ont., (marine distributor and marine servicing depot), and L.F. Burgess & Associates of Oakville, Ont., (marine manufacturer's representative) - denotes a preference for:

- (i) an eo nomine listing of "made" goods with a n.o.p. ("not otherwise provided for") item for "not made", "uncertain" and unidentified goods as well as new products coming onto the market.

[It is claimed that such a "transfer of the onus" from "not made" goods to "made and named" products would reduce the workload on, and improve the efficiency of, the customs administration, in that there are now "some several thousand rulings from hundreds of suppliers under tariff item 44022-1" but "diligent search" has not revealed "more than twenty manufacturing firms" which meet required standards of quality and delivery].

The same general position, with an added dimension, is set forth in a joint submission made on behalf of a further nine members of the Recreational Marine Industry - viz: Spencer Boats Ltd. of Richmond, B.C. (boat builder), Findlay Imports Limited of Vancouver, B.C. (marine distributor), Intermann Marine Marketing Limited of Vancouver, B.C. (marine distributor), Whitby Boat Works Limited of Whitby, Ont., (boat builder), Rekord Marine Ent. Ltd. of Vancouver, B.C. (marine distributor), Wright Mariner Supply Ltd. of Vancouver, B.C. (marine distributor), Mariner Distributors Inc. of Vancouver, B.C. (marine distributor), Cooper Yachts of Port Coquitlam, B.C. (boat builder), and Tanzer Industries Inc. of Dorion, Que., (boat builder). These businesses favour:

- (i) an eo nomine listing of "made" goods, as indicated above;
- (ii) retention of the existing administrative criterion for "made" goods (i.e. 10 per cent or more of normal Canadian consumption) in determining eligibility of domestic products for tariff protection.

The above proposals are reiterated in an individual submission received from Kitsmar Canada Ltd.

In separate but identical submissions, Marine Distributors Inc., Rekord Marine Ent. Ltd. and Wright Mariner Supply Ltd. add a further proposition to the joint proposals set out above - viz:

- (iii) extension of the coverage of tariff item 44022-1 to embrace "articles of any material" [as opposed to "manufactures of iron, brass or other metal"].

In an individual submission, Spencer Boats Ltd. notes:

- (i) in practice, existing arrangements for the reclamation of duties on imported materials entering into goods for export (notably, boats) work "only on items of significant magnitude in cost that ... can be specifically identified and traced through the paper system";
- (ii) no disagreement with the imposition of duty on goods of a class or kind manufactured in Canada "to provide a Canadian company with incentive to develop a product in the market place";
- (iii) "a similar type of incentive should be considered or at least guarded for the end user in the manufacturing chain".

Woodard and Company Ltd. of Toronto, Ont., a manufacturers' representative, warehouse agent and wholesaler trading in imported marine products, proposes:

- (i) elimination of the "class or kind" proviso, allowing all boat parts and accessories to enter Canada free of duty;
- (ii) alternatively, as a second choice, an eo nomine listing of "made" goods, determined on the basis of detailed product specifications rather than by reference to general commodity class;

(iii) if an eo nomine approach is adopted: (a) the criterion for "made" goods should be increased from 10 per cent of the domestic market to as much as 40 per cent, (b) in determining which goods should be designated as "made", the customs administration should consult with boat builders and wholesalers to establish the extent of the market, (c) for the aforementioned purpose, a committee should be set up composed of representatives of the customs administration and the private sector.

[In a subsequent supplementary communication to the Board, Revol Agencies Ltd. indicates its endorsement of Woodard's proposals summarized in (ii) and (iii) above].

C & C Yachts Manufacturing Ltd. of Niagara-on-the-Lake, Ont., "one of the largest yacht builders in North America", contends:

- (i) "the pleasure craft industries are not shipbuilders" under the intent of tariff item 470 [the forerunner of item 44022-1] as envisaged in 1906;
- (ii) a separate tariff item should be created for the use of manufacturers of pleasure craft;
- (iii) this new item should take the form of an eo nomine listing of "made" goods with a n.o.p. ("not otherwise provided for") item for "not made", "uncertain" and "unidentified" goods as well as new products coming onto the market;
- (iv) as recommended in Reference No. 149. Pleasure Craft, such an item should provide for the preferential entry of "manufactures of any material", as opposed to "manufactures of iron, brass or other metal". This would permit the accommodation of new types of material for boat building (e.g. fibreglass) which have become commonplace since 1906;
- (v) a Canadian manufacturer should be required to demonstrate a 10 per cent "market share" in order for his product(s) to qualify for inclusion on an eo nomine listing of "made" goods.

The Marine Trades Association of British Columbia, with over 100 member companies actively involved in the manufacture and distribution of marine and marine-related products, favours:

- (i) an eo nomine listing of "made" goods, as best satisfying considerations of "equity, administrative convenience, long-run implementation cost, and industrial impact";
- (ii) the establishment of a series of industry advisory committees "charged with evaluating requests for protection from imports from Canadian producers of goods not specifically named at the inception of the new procedure".

Staff Appraisal

1. Unless additional information is forthcoming with respect to the made-in-Canada status of the "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of whatever data are available. In the absence of evidence to the contrary, "uncertain" commodity classes recorded as entering under this "not made" item will generally have to be considered as not made in Canada, and hence as eligible for duty-free treatment.

2. The overwhelming bulk of submissions in connection with tariff item 44022-1 have emanated from concerns with an interest in pleasure craft. The failure of most commercial marine undertakings to respond is surprising in view of the basic industrial orientation of the item.

3. The proposal, common to a number of briefs, for the scope of item 44022-1 to be broadened to encompass "articles of any material" is not without merit. As pointed out by C & C Yachts Manufacturing Ltd., the present wording, restricting the coverage of the item to "manufactures of iron, brass or other metal", has remained virtually unchanged since 1906. In recent years, particularly in the recreational marine industry, new materials, such as plastics and fibreglass, have become the dominant component materials of chief value. However, if manufactures made from these non-metallic materials are to be provided for in an eo nomine item, they will have to be identified and their made-in-Canada status determined in the light of advice and information provided by knowledgeable and interested parties, including producers of the pertinent products. It may be considered somewhat late to be re-embarking upon a time-consuming exercise of this kind, the more especially since it would extend the area of investigation beyond that referred directly to the Board.

4. Interested parties have expressed a general preference for the "made" goods to be listed eo nomine in a dutiable item, leaving other goods to be accommodated in a n.o.p. duty-free provision. This would seem to make for the neatest tariff solution, given the heavy predominance of "not made" and "uncertain" commodity classes.

5. Any eo nomine item will require to be worded in such a manner as to exclude the engines and engine parts falling under tariff item 44037-1, the constituent materials and articles for these goods classifiable to item 44040-1, and the diesel and semi-diesel engines and complete parts thereof admissible under referred item 44025-1 (or its replacement as recommended by the Board, or otherwise).

6. As implied in Background No. 10 (p. 33), due to the enormity of the undertaking, the Board has not found it feasible to attempt to determine the made-in-Canada status of goods falling within the scope of Reference No. 157 on the basis of the so-called "10 per cent rule" (applying to the Canadian manufacturers' share of the domestic market) and it is not recommended that an exception should be made in the present instances. Even without the invocation of this principle, it appears that comparatively few of the pertinent goods would be categorized as "made".

7. Several submissions have suggested that committees drawn wholly or partly from knowledgeable members of the business community should provide advice, apparently on an on-going basis, respecting the made-in-Canada status of pertinent products. These suggestions perhaps miss the point that a principal purpose of the inquiry to date (including consultations between the Board's staff, officers of the Department of Industry, Trade and Commerce, and representatives of industry) has been to obtain just such advice and information as a basis for tariff recommendations which, if accepted by the Minister, will become part of the Canadian statutory tariff structure, subject to GATT bindings and not lightly changed.

8. While the proposal submitted on behalf of Seaforth Fednav Limited for the establishment of a duty-free non end-use tariff item, would eliminate the need for appropriate end-use certificates, it would seemingly result in reduced levels of protection for a wide range of metal manufactures. Further, regarding the company's alternative proposition, there do not appear to be any exceptional circumstances which would justify applying the principles governing duty-free entry as outlined in Departmental Memorandum D10-11-10 (with respect to tariff items 69605-1 and 69605-2). However, views on this matter are invited.

9. The amendments of June 30, 1983 will have the effect of bringing within the ambit of tariff item 44022-1 a large additional range of goods, not previously reviewed in connection with this Reference, for use in floating, submersible or semi-submersible structures. Interested parties are invited to submit information concerning such goods, particularly indicating which products are made and which are not made in Canada. In the absence of an adequate response from those using the relevant additional types of offshore equipment and those supplying metallic manufactures for use therein, it will be difficult for the Board to make recommendations which will fully and accurately reflect the made-in-Canada status of the pertinent products.

TARIFF ITEM 44059-1

Existing Tariff Provisions

Auxiliary power units;
 Batteries;
 Bolts, cocks, cotter pins, eyelets, nuts, pins, rivets,
 screws, turnbuckles and clevis, washers;
 Brakes, with related operating gear;
 Carburettors;
 De-icing and anti-icing equipment;
 Direct or inertia starters with or without related
 operating gear;
 Distributors;
 Electric generators;
 Electric lamps;
 Exhaust gas analyzers;
 Fittings and couplings;
 Forgings and castings;
 Fuel pressure warning devices;
 Hinges;
 Hydraulic jacks;
 Hydraulic pumps;
 Ignition coils;
 Instruments;
 Landing and navigation lights;
 Magnetos;
 Oil coolers;
 Pressure fire extinguishers;
 Primer pumps;
 Propellers and helicopter rotors;
 Radio for navigation and air traffic communication;
 Seats;
 Shapes or sections, rolled, drawn or extruded, and bars,
 rods, tubes, plate, sheet and strip, of any metal or
 alloy thereof;
 Spark plugs;
 Swaged wires and tie rods;
 Tires and tire inner tubes;
 Vacuum pumps with related operating gear;
 Voltage control boxes;
 Wheels;
 Parts of all the foregoing:

All of the foregoing when of types or sizes not made in
 Canada and for use in aircraft, aircraft engines, airborne
 aircraft equipment, or parts of aircraft, aircraft engines,
 or airborne aircraft equipment.

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

It will be noted that in this instance, the made-in-Canada status of
 goods is based on "types or sizes" rather than "class or kind". In order to
 be classified as "made", products should be both "of a type" and "of a size"
 produced in Canada. It will further be noted that the "not made" qualifi-
 cation applies both to the goods named in the item and to their parts.

There are a number of GATT bindings relating to the item, all
 carrying a M.F.N. rate of Free. Together, these bindings cover all the listed
 products, although not parts in every instance. Further, there are some
 differences in terminology, with the "electric generators", "ignition coils"

and "tires and tire inner tubes" specified in the item being equated with "generators", "coils" and "tires and tubes" in the bindings. In relation to one group of goods - viz: carburettors, magnetos, distributors, coils and spark plugs, and complete parts thereof, "imported for use in aircraft engines" - the binding uses the term "of a class or kind not made in Canada", rather than the words "of types or sizes not made". Conceivably, a product admissible under the item as being of a "type or size not made in Canada" might be held to be "of a class or kind made", and thus not covered by the binding.

There is no binding under this item for parts - to the extent that such exist - of any of the following products:

- Bars, tubes, extrusions and forgings of aluminum, aluminum alloys and magnesium alloys;
- Batteries;
- Bolts, cocks, nuts, turnbuckles, clevis and pins;
- Exhaust gas analysers;
- Fuel pressure warning devices;
- Generators;
- Instruments except fuel content gauges;
- Landing and navigation lights;
- Oil coolers;
- Pressure fire extinguishers;
- Primer pumps;
- Propellers;
- Steel tubing;
- Swaged wires and tie rods;
- Tires and tubes;
- Voltage control boxes; and
- Wheels.

The coverage of tariff item 44059-1, and the end uses of the relevant products, are quite specific. However, it must be borne in mind that all goods otherwise classifiable under this item fall under item 44062-1 (see below) when imported "for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of civil aircraft or aircraft engines for use in civil aircraft".

When excluded from tariff item 44059-1 because they are of types and sizes made in Canada, those goods which are specifically named elsewhere in the Customs Tariff (batteries, electric generators, electric lamps, tires, etc.) would fall under the item in which they are named. Those not so named, if eligible, would be free of duty as "parts of aircraft, n.o.p.", or "parts of aircraft engines, n.o.p.", under items 44053-1 and 44057-1 respectively. Failing any of the foregoing classifications, the goods would be classified according to their material or nature, often as unspecified manufactures of the material involved. Item 44059-1 is now principally applicable to goods for military aircraft.

With regard to civil aircraft, many of the alternate items would be over-ridden by the provisions of tariff item 44062-1, with free entry bound under the M.F.N. Tariff. This item is worded:

44062-1 Hinges entitled to entry under tariff items 35200-1, 35400-1 and 36215-1;
Furniture entitled to entry under tariff items 35400-1, 44603-1, 61800-1 and 93907-1;
Castings entitled to entry under tariff items 35400-1 and 39000-1;
Forgings entitled to entry under tariff item 39200-1;
Sealed-beam lamps entitled to entry under tariff item 44504-1;
Microphones entitled to entry under tariff item 44536-1;
Magnesium castings entitled to entry under tariff item 71100-1;
Goods except parts, entitled to entry under tariff items 44028-1, 44300-1, 44514-1, 44538-1, 44540-1 and 46200-1;
Goods entitled to entry under tariff items 31200-1, 36800-1, 41417-1, 41417-2, 41505-1, 41505-2, 42400-1, 42405-1, 42700-1, 42701-1, 43005-1, 43300-1, 44053-1, 44057-1, 44059-1, 44500-1, 44502-1, 44516-1, 44524-1, 44532-1, 44533-1, 47100-1 and 61815-1.

All the foregoing when for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of the goods enumerated in tariff item 44060-1.

Tariff item 44060-1 referred to in item 44062-1, covers:
Civil aircraft; aircraft engines for use in civil aircraft.

Imports

The annual value of goods imported under tariff item 44059-1 increased from \$149.1 million in 1976 to \$563.5 million in 1980, subsequently falling slightly to \$562.1 million in 1981. The latter figure far exceeded that recorded under any other referred item in this reference, and represented approximately one-third of the total value of imports under all Phase II items. It is worthy of note that while goods encompassed by literally hundreds of commodity classes were admitted under tariff item 44059-1 during the aforementioned years, c.c. 605-99-10 ("aircraft assemblies, equipment and parts nes") generally accounted for between two-fifths and one-half of all pertinent imports.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There are no published rulings regarding types or sizes of aircraft parts in Customs Memorandum D-11-1.

(b) Commodity Classes

The following listing, based upon Table 4 of Background No. 10, sets out the provisional made-in-Canada status of goods falling under the aforementioned tariff item:

Commodity Class		Provisional Made-in-Canada Status
Auxiliary power units		
605-99-10	Aircraft assemblies, equipment and parts, nes	Uncertain*
	Batteries	
693-27-40	Batteries, nickel-cadmium	Uncertain*
693-27-90	Batteries, storage, wet cell, nes	Uncertain*
	Bolts, cocks, cotter pins, eyelets, nuts, pins, rivets, screws, turnbuckles and clevis, washers:	
	Bolts and nuts	
465-06-60	Bolts, steel, aircraft, with or without nuts	Not Made
465-06-69	Bolts, metal, nes, aircraft, with or without nuts	Not Made
465-08-21	Nuts, steel, lock	Not Made
465-08-69	Nuts, steel, nes	Not Made
465-08-89	Nuts, locknuts & stop nuts, metal, nes	Not Made
	Cocks, cotter pins, eyelets, turnbuckles and clevis	
465-19-50	Fasteners, spring, of any metal	Not Made
465-19-59	Fasteners, metal, nes, except dress & snap	Not Made
465-99-89	Basic hardware nes	Uncertain*
	Pins	
465-99-20	Studs and pins, for impact installation	Uncertain*
	Rivets	
465-49-20	Rivets, aircraft, steel	Made
465-49-29	Rivets, aircraft, nes	Made
	Screws	
465-14-20	Screws, cap, steel, aircraft	Uncertain*
465-14-89	Screws, cap, nes	Uncertain*
465-19-11	Screws, aircraft, steel	Not Made
465-19-19	Screws, nes, aircraft	Not Made
	Washers	
465-26-25	Washers, plain, flat or plate, steel	Not Made
465-26-35	Washers lock, steel	Not Made
465-26-45	Washers, of any metal, except steel	Not Made
	Brakes, with related operating gear; Carburettors; De-icing and anti-icing equipment	
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
	Direct or inertia starters with or without related operating gear	
689-08-10	Starter-motors, internal combustion engine	Not Made
	Distributors	
689-12-10	Distributors, internal combustion engine	Uncertain*

Electric generators		
689-16-10	Generating equipment for internal combustion engines	Uncertain*
Electric lamps		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Exhaust gas analyzers		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Fittings and couplings		
605-99-10	Aircraft assemblies equipment and parts nes	Uncertain*
Forgings and castings		
443-59-89	Steel castings, alloy steel, nes, rough, unfinished	Uncertain*
443-99-29	Steel forgings, carbon steel, nes, closed die, rough & unfinished	Uncertain*
443-99-39	Steel forgings, alloy steel, nes, closed die, rough & unfinished	Uncertain*
443-99-59	Steel forgings, alloy steel, nes, flat or open die, unfinished	Uncertain*
443-99-60	Steel forgings, mold steel, rough & unfinished	Uncertain*
443-99-70	Steel forgings, alloy tool steel, rough & unfinished	Uncertain*
451-14-90	Castings, nes, aluminum/aluminum alloy, unfinished	Uncertain*
451-16-10	Forgings, aluminum/aluminum alloy, unfinished	Uncertain*
454-99-30	Castings, nickel alloy, unfinished	Uncertain*
454-99-40	Forgings, nickel alloy, unfinished	Uncertain*
459-85-40	Castings, magnesium alloy, unfinished	Uncertain*
Fuel pressure warning devices		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Hinges		
465-53-30	Hinges, continuous	Uncertain*
465-53-90	Hinges and butts nes	Uncertain*
Hydraulic jacks		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Hydraulic pumps		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Ignition coils		
689-89-30	Coils, ignition	Uncertain*
Instruments		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
709-19-11	Pilots, automatic, aircraft	Not Made
709-19-41	Altimeters, navigational, except radio	Uncertain*
709-19-90	Navigation instruments and apparatus nes -inertial navigation systems; omega & doppler navigation systems; projected moving map displays	Uncertain*
	-other	Not Made

Landing and navigation lights		
681-63-20	Fixtures, lighting; aircraft	Uncertain*
Magnetos		
689-89-40	Magnetos, internal combustion engine	Uncertain*
Oil coolers		
603-49-10	Engines, aircraft, parts of nes	Uncertain*
Pressure fire extinguishers		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
720-49-88	Fire fighting equipment, nes	Uncertain*
Primer pumps		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Propellers and helicopter rotors		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Radio for navigation and airtraffic communication		
634-39-40	Radar, navigation, airborne	Uncertain*
634-39-90	Radar equipment, nes	Uncertain*
634-90-90	Transmitter-receivers, radio, nes	Uncertain*
634-99-39	Radio navigation equipment, nes	Uncertain*
634-99-40	Microwave equipment, communication	Uncertain*
Seats		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Shapes or sections, rolled, drawn or extruded, and bars, rods, tubes, plate, sheet and strip, of any metal or alloy thereof		
444-25-89	Bars, stainless steel, nes, hot rolled	Uncertain*
444-29-49	Bars, alloy steel, nes, hot rolled, rounds	Uncertain*
444-85-10	Bars, stainless steel, cold drawn/cold finished	Uncertain*
444-90-90	Bars, alloy steel, nes, cold drawn/cold finished	Uncertain*
448-68-90	Pipes/tubes, stainless steel, nes, new	Uncertain*
451-20-45	Bars, aluminum/aluminum alloy, extruded, except wire bars	Made*
451-20-59	Bars, aluminum/aluminum alloy, nes, except wire bars	Uncertain*
451-24-30	Plates, aluminum/aluminum alloy, .250" to .500" thick	Made*
451-24-40	Plates, aluminum/aluminum alloy, >.500" to 1" thick	Made*
451-24-50	Plates, aluminum/aluminum alloy, >1.00" to 2" thick	Made*
451-24-60	Plates, aluminum/aluminum alloy, over 2" thick	Uncertain*
451-25-52	Sheets, aluminum/aluminum alloy, cropped, up to .015" thick	Made*
451-25-55	Sheets, aluminum/aluminum alloy, cropped, >.015" to .025"	Made*
451-27-51	Sheets, aluminum/aluminum alloy, coiled, >.025" to .051"	Made*
451-27-52	Sheets, aluminum/aluminum alloy, cropped, >.025" to .051"	Made*
451-29-52	Sheets, aluminum/aluminum alloy, cropped, >.051" to .125"	Made*

451-31-52	Sheets, aluminum/aluminum alloy, cropped, >.125" to .249"	Made*
451-36-51	Angles, aluminum/aluminum alloy, not fabricated	Made*
451-36-54	Tees, aluminum/aluminum alloy, not fabricated	Made*
451-36-90	Structural shapes, nes, aluminum/aluminum alloy, not fabricated	Made*
451-40-10	Pipes/tubes, aluminum/aluminum alloy	Made*
451-49-90	Aluminum/aluminum alloy fabricated materials, nes	Made*
454-76-31	Sheets, nickel-chromium alloy	Uncertain*
454-76-39	Sheets, nickel alloy nes	Uncertain*
454-99-59	Bars, nickel alloy nes, except wire bars	Uncertain*
459-45-31	Magnesium fabricated materials, except magnesium alloy	Uncertain*
459-70-25	Titanium primary forms, except titanium alloy	Not Made
459-70-40	Bars, titanium, except titanium alloy	Uncertain*
459-70-60	Flat products, titanium, except titanium alloy	Uncertain*
459-70-90	Titanium fabricated materials nes, except titanium alloy	Uncertain*
459-99-23	Bismuth alloys primary forms & fabricated materials	Uncertain*
459-99-34	Cobalt alloys primary forms & fabricated materials	Uncertain*
459-99-70	Titanium alloys primary forms	Not Made
459-99-72	Titanium alloys fabricated materials	Uncertain*
459-99-90	Non-ferrous alloys nes primary form/fabricated materials	Uncertain*
Spark plugs		
689-24-10	Spark plugs	Not Made
Swaged wires and tie rods		
603-49-10	Engines, aircraft, parts of nes	Uncertain*
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Tires and tire inner tubes		
621-49-20	Tires, aircraft, new, pneumatic	Not Made
625-29-90	Tubes, inner, nes	Uncertain*
Vacuum pumps with related operating gear		
605-99-10	Aircraft assemblies, equipment and parts nes	Uncertain*
Voltage control boxes		
689-89-50	Regulators, voltage, internal combustion engine	Uncertain*
Wheels		
605-99-10	Aircraft assemblies, equipment and parts nes	
Parts of all the foregoing		
465-53-88	Hinges and butts, nes, parts of	Uncertain*
495-05-40	Cores, spark plug	Uncertain*
603-49-10	Engines, aircraft parts of nes	Uncertain*
605-99-10	Aircraft assemblies equipment and parts nes	
	-electrical metal cabinetry; seat covers	Made*
	-other	Uncertain*
634-39-88	Radar equipment, specific parts, nes	Uncertain*
639-10-20	Capacitors, electrolytic	Uncertain*
639-10-40	Capacitors, ceramic	Uncertain*
639-10-90	Capacitors, electronic, nes	Uncertain*
639-15-40	Resistors, composition, variable	Uncertain*
639-15-90	Resistors, electronic, nes	Uncertain*
639-23-20	Transformers, electronic type	Uncertain*
639-24-20	Coils and inductors, electronic	Made*

639-30-20	Power supply, communication equipment	Made*
639-30-88	Power supply, electronic, parts of	Uncertain*
639-55-29	Printed circuit boards nes, without components	Made
639-55-39	Printed circuit boards nes, with components	Made
639-99-20	Connectors, electronic equipment	Uncertain*
639-99-30	Relays, electronic	Uncertain*
639-99-60	Filters, electronic, radio frequency	Uncertain*
639-99-88	Electronic equipment components, parts of nes	Uncertain*
639-99-90	Electronic equipment components, nes	Uncertain*
	-electronic metal cabinetry	Made*
	-other	Uncertain*
681-63-88	Fixtures, lighting, aircraft, parts of, nes	Uncertain*
689-89-90	Electrical equipment, internal combustion engine, nes	Uncertain*
689-95-29	Distributors, ignition, parts of, nes	Uncertain*
689-95-39	Spark plugs, metal parts, nes	Uncertain*
689-95-49	Starter-motors, internal combustion engine, parts of, nes	Uncertain*
689-95-59	Generators, internal combustion engine, parts of, nes	Uncertain*
689-95-60	Switches, ignition	Uncertain*
689-95-89	Electrical equipment, internal combustion engines, parts, nes	Uncertain*
693-95-10	Batteries, parts of, nes	Uncertain*
709-19-18	Pistols, automatic, parts of	Uncertain*
709-19-28	Compasses, magnetic, except radio and gyro, parts of	Uncertain*
709-19-38	Compasses, gyromagnetic, parts of	Uncertain*
709-19-48	Altimeters, navigational, parts of	Uncertain*
709-19-88	Navigation instruments, nes, parts of	Uncertain*
771-22-47	Computer communications interface equipment	Uncertain*
771-22-49	Computer communications equipment nes	Uncertain*

All of the foregoing for use in aircraft, aircraft engines, airborne aircraft equipment, or parts of aircraft, aircraft engines, or airborne aircraft equipment

* Indicates a change from Table 4 and/or a class regarding which further information is required.

It may be noted that the above listing now includes (under "parts of all the foregoing") commodity classes 639-24-20 and 639-30-20, these additions being made in order to accommodate the claim put forward by Hammond Manufacturing Company Limited of Guelph, Ont., to produce certain of the pertinent goods. These two classes had originally been identified by the Board as being of relevance to the tariff item under review, but were subsequently eliminated from further consideration on account of the comparatively low level of imports in the survey year (1978). Also reflecting production claims by Hammond Manufacturing, electronic metal cabinetry has been broken out of c.c. 639-99-90 ("electronic equipment components, nes"), while electrical metal cabinetry has been identified as "made" under c.c. 605-99-10 ("aircraft assemblies, equipment and parts nes"). Seat covers, manufactured by Fell-Fab Products Ltd., have also been named under this latter class.

Additionally, the made-in-Canada status of the following classes or sub-classes of goods, formerly given a provisional "made" designation, has now been changed to "uncertain" in response to representations from the Air

Transport Association of Canada (ATAC), to the effect that, even though the goods in question may, in some instances, be made in Canada, either there are no domestic producers on the list of approved suppliers for the uses named in the item, or else the goods are specific to particular models of aircraft: c.c. 639-99-20 ("connectors, electronic equipment"), c.c. 639-99-60 ("filters, electronic, radio frequency"), c.c. 709-19-41 ("altimeters, navigational, except radio"), and c.c. 709-19-90 ("navigation instruments and apparatus nes" - inertial navigation systems; omega & doppler navigation systems; projected moving map displays). Of the few remaining categories of goods provisionally designated as "made" in Table 4, three classes - viz: c.c. 639-23-20 ("transformers, electronic type"), c.c. 639-55-29 ("printed circuit boards nes, without components"), and c.c. 639-55-39 ("printed circuit boards nes, with components") - are stated by ATAC to "ordinarily enter Canada using other items than 44059-1 to feed into 44062-1 and 44060-1", these items being specified as 44514-1 and 44524-1 respectively. There would also appear to be some doubt as to whether there are any approved domestic suppliers of the aforementioned transformers covered by c.c. 639-23-20.

With respect to the various classes of goods referred to above, further information is required to determine conclusively that the products at issue are, in fact, made for use in aircraft or for the other uses encompassed by the tariff item. According to regulations imposed by governments, airlines and airline operators are required to buy many of their goods only from approved sources, and the fact that a good of a particular type or size may be manufactured by a given firm does not necessarily imply its approval for use in aircraft. Information is also needed regarding the made-in-Canada status of the lengthy list of commodity classes to which an "uncertain" designation was attached in Table 4. According to the Air Transport Association of Canada, which supplied the only specific comment with respect to these classes, "there is no uncertainty at all" and "none" is made in Canada.

With regard to the following classes of goods hitherto included in Table 4, or subsequently brought to the Board's attention by interested parties, the Board's staff, after studying the CITC, is no longer satisfied, or has doubts, that they are, in fact, relevant to tariff item 44059-1, even though goods imported under the item may have been coded to them. Comments are invited.

468-99-45	Pipe fittings, aluminum	Made*
468-99-89	Pipe fittings nes	Not Made
469-99-70	Weldments, steel	Uncertain*
493-40-10	Hose couplings & fittings (without hose)	Not Made
503-69-20	Servo motors, electric	Uncertain*
503-69-29	Synchro, nes	Uncertain*
503-69-55	Generators, direct current, 150 kw and over	Uncertain*
503-79-49	Generators, direct current, nes, parts and accessories	Uncertain*
683-79-31	Reactors, power, undr 500 kva	Made*
683-79-52	Transformers, instrument	Made*

683-79-90	Transformers, power, under 500 kva nes	Made*
697-99-59	Electromagnets, nes (general purpose)	Uncertain*
702-90-90	Electrical/electronic properties measuring/ testing instruments nes	Uncertain*
730-69-63	Generators, ground power units, aircraft	Uncertain*

Tariff Proposals

The Air Transport Association of Canada, representing the domestic commercial civilian air carriers, advocates:

- (i) continued free entry of aircraft parts under tariff item 44059-1;
- (ii) removal of the "types or sizes" qualification.

In support of this position, ATAC refers to: (a) considerations of aircraft safety and production efficiency, (b) free-trade provisions contained in the GATT Agreement on Civil Aircraft, (c) international buying/marketing practices and the global division of labour with respect to the production of aircraft parts, (d) non-substitutability/model specificity of much aircraft equipment, and (e) loss of international goodwill and the risk of retaliation for any protective measures taken.

In a post-hearing communication, the Canadian Transport Commission indicates support for the position of the Air Transport Association of Canada because of the safety and cost implications.

In a separate submission made to the Board in connection with tariff item 42726-1 ("ball and roller bearings of a class or kind not made in Canada, n.o.p.; parts thereof"), Air Canada proposes the addition of "bearings" to the list of goods enumerated in item 44059-1, it being noted that, as of April, 1982, FAG Bearings Limited of Stratford, Ont., which sells the airline "a limited range of aircraft instrument bearings, ... is the only Transport Canada approved manufacturer of aircraft bearings to approved specifications in Canada".

A similar submission to the above was made by Pratt & Whitney Aircraft of Canada Ltd.

The Ball and Roller Bearing Manufacturers' Association of Canada opposes adding bearings to tariff item 44059-1, as suggested by the aforementioned parties.

The Air Industries Association of Canada, representing over 100 Canadian manufacturers (many of whom are heavily dependent upon exports), contends:

- (i) ball and roller bearings are no longer being manufactured in Canada in any commercial quantities, "so that the 'class or kind' qualification [applying to tariff item 42726-1] is no longer applicable";
- (ii) when for use in aircraft, bearings should be allowed duty-free entry;

- (iii) to achieve (ii) above, would require changes in the wording of items 42726-1 and 42729-1, in addition to the removal of the "class or kind" provision from item 42726-1;
- (iv) removal of the "types or sizes" qualification from tariff item 44059-1 would not be detrimental to Canadian industry, and "in fact, ... the recent implementation of the Civil Aircraft Trade Agreement has resulted in duty free entry of virtually all civilian aircraft products";
- (v) a duty-free provision is preferable to the use of remission orders (with respect to the reclamation of duty on imported parts and materials incorporated in goods for export) because of the reporting procedures required in connection with remissions.

Honeywell Limited of Scarborough, Ont., advocates:

- (i) tariff item 44059-1 be retained, but without the "types or sizes" qualification;
- (ii) if an eo nomine or availability criterion is deemed necessary, it "should be taken into consideration" that the goods imported by Honeywell, which are listed in the Background Paper, "are unique to military aircraft and military specifications and ... are not available from production in Canada".

Litton Systems Canada Limited of Rexdale, Ont., which manufactures for the world market various airborne systems using mostly imported parts and components, favours:

- (i) a continuation of duty-free status for goods entitled to entry under item 44059-1 if such goods are not available from Canadian production;
- (ii) an eo nomine listing of relevant products.

Circo Craft Co. Inc. of Granby, Que., appears to favour the reduction or elimination of duties on component parts of printed circuit boards so as to enable it to obtain, at lower cost, certain "state of the art" equipment and process materials.

Staff Appraisal

1. Unless information is forthcoming concerning the made-in-Canada status of "uncertain" classes of goods, it will be necessary to assign such goods for duty purposes on the basis of whatever data are available.

2. However, present evidence indicates that the overwhelming preponderance of relevant products are not produced in Canada, or when manufactured are not produced by approved sources and/or to the particular specifications required in a given instance. Accordingly, the most practical tariff arrangement would be to exclude the "made" goods from a modified version of the existing item, written so as to also exclude the "types or sizes" qualification.

3. In addition, on the basis of the representations to the Board, it appears that, with the exception of certain instrument bearings, ball and roller bearings for use in aircraft are not produced in Canada. However, it would seem preferable to provide for the duty-free entry of the "not made" bearings (the "made" bearings being clearly delimited) under revised tariff item 42726-1 (see Staff Appraisal: Electrical Goods, Metal Goods and Miscellaneous Goods II) rather than by expanding the coverage of item 44059-1, as proposed by Air Canada and Pratt & Whitney Aircraft of Canada Ltd.

4. There does not appear to be sufficient reason to include a provision for component parts of printed circuit boards under this tariff item.

TARIFF ITEM 97053-1

Existing Tariff Provisions

This drawback item relates to goods used in the production of aircraft, aircraft engines, airborne equipment, or parts of all the foregoing, as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Machinery; precision instruments and apparatus for heat treating, welding, sorting, testing, inspecting or correcting; control panels for use with the aforementioned machinery and precision instruments and apparatus; all of the foregoing of a class or kind not made in Canada; accessories and attachments for use with the aforementioned machinery and precision instruments and apparatus; parts of all the foregoing, not including consumable tools	When used for the manufacture of aircraft, aircraft engines, airborne aircraft equipment, or of parts of the foregoing

Portion of duty payable as drawback: 100 p.c.

As with all drawback items, there are four components of this item:

1. The item number;
2. The enumeration of goods on which drawback may be granted;
3. The circumstances under which the goods are subject to drawback; and
4. The rate of drawback.

In this particular item, components 1, 3 and 4 are straightforward. Component 2 lists the following goods as being subject to drawback:

- (a) machinery, of a class or kind not made in Canada;
- (b) precision instruments and precision apparatus, of a class or kind not made in Canada, for heat treating, welding, sorting, testing, inspecting or correcting;
- (c) control panels, of a class or kind not made in Canada, for use with the goods in (a) and (b);
- (d) accessories and attachments, regardless of their own made-in-Canada status, for use with the goods in (a) and (b); and
- (e) parts of the goods in (a), (b), (c) and (d), regardless of their own made-in-Canada status, but not including consumable tools.

Strictly speaking, in this reference, the Board's concern is only to find suitable replacement descriptions for (a), (b) and (c), eliminating the "not made in Canada" provision.

This item is apparently designed to bolster the competitive position of domestic manufacturers of aircraft, aircraft engines, airborne aircraft equipment and parts of all the foregoing, in light of the advantages derived by importers from free entry of competing goods under tariff items 44045-1,

44049-1, 44053-1, 44057-1, 44059-1 (see supra), 44060-1 and 44061-1. However, it will be noted that this drawback item does not cover the same goods as are provided for in the duty-free tariff items listed above. Instead, it covers certain machinery, accessories, attachments and control equipment, as described in the common preamble to tariff items 42700-1 to 42700-9, as well as precision instruments and apparatus used in the production of the relevant goods.

By 1987, with the completion of the MTN tariff reductions, a very large part of the goods eligible for drawback under item 97053-1 will be free of duty, in any case, either under the Machinery Duty Remission Program or under tariff item 44532-1 ("electrical instruments and apparatus of precision ...").

There are no published data respecting drawbacks claimed or paid, nor respecting import commodity classes relevant to particular drawback items.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There is no available information regarding the extent to which the various rulings published in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 are relevant to this drawback item.

(b) Commodity Classes

In the absence of any detailed information regarding goods on which drawbacks have been granted, no meaningful listing of relevant commodity classes can be established.

Tariff Proposals

In post-hearing supplementary submissions, the Air Transport Association of Canada, representing the major domestic civilian air carriers (which also engage in the repair and modification of aircraft), proposes:

- (i) elimination of the "not made in Canada" provision of tariff item 97053-1;
- (ii) broadening the coverage of the existing item to encompass goods used for other than manufacturing purposes;
- (iii) a revised item, worded as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Machinery; precision instruments, tools and equipment and apparatus; for manufacturing, servicing, repairing, maintaining, converting, rebuilding, modifying, heat treating, welding, sorting, testing, inspecting, or correcting; control panels for use with aforementioned machinery,	When used for the manufacture, service, repair, maintenance, conversion, rebuilding or modification of aircraft, aircraft engines, air-borne aircraft equipment or for parts of the foregoing

precision instruments and apparatus;
accessories and attachments for use
with aforementioned machinery and
precision instruments and apparatus;
parts of the foregoing

The Association undertook to submit further information on the goods involved (not yet received).

The Air Industries Association of Canada, representing over 100 Canadian manufacturers, proposes:

- (i) retention of item 97053-1 in a form which would continue to provide protection to domestic manufacturers of competing products;
 - (ii) utilizing the Machinery Duty Remission Program, through tariff items 42700-1, 42700-4 and 42701-1, as the means for remitting duty on "not available" goods which would otherwise fall under these provisions;
 - (iii) with respect to remaining goods, listing those which are "made" in a new dutiable item, and providing for the duty-free entry of "not made" products.
- The Association undertook to provide a list of relevant goods (not yet received).

Litton Systems Canada Limited of Rexdale, Ont., a manufacturer of aircraft equipment, proposes:

- (i) retention of the existing item "as an alternate method [to that available under the Machinery Duty Remission Program or, potentially, under tariff item 44532-1] of recovering duty paid", this being an option which "should remain available to the aircraft industry";
- (ii) continuation of duty-free access to goods not available from production in Canada, in order that domestic manufacturers may remain competitive in export markets.

Staff Appraisal

1. As noted in the evidence at the hearing, goods going into aircraft are stringently controlled for safety reasons, and require precision in manufacturing.

2. The proposals of the Air Transport Association of Canada, while of some merit, appear to go well beyond the scope of the reference. They also seem to contain some unnecessary duplication of wording between the two main components of the proposed item with respect to the "repair, servicing, maintenance, conversion, rebuilding and modification" of the relevant products.

3. Assuming the implementation of the Board's recommendations in regard to electrical instruments and apparatus of precision presently classifiable under tariff item 44532-1 (see Reference No. 157. Tariff Items Covering Goods Made/Not Made in Canada. Phase I, pp. 269-70), alternative provisions for duty remission would be in effect with respect to the bulk of the goods on which drawbacks are now obtainable under item 97053-1. These provisions would be available to the members of the Air Transport Association and other interested parties. The most satisfactory solution might then be an eo nomine listing of all residual "not available" goods excluded from the coverage of such other remission provisions. These goods would encompass apparatus, non-electrical precision instruments, and any accessories or attachments, or parts thereof, not eligible for remission under the Machinery Duty Remission Program.

4. In the absence of any satisfactory solution, as outlined in paragraph 3 above, the next best alternative would appear to be simple deletion of the item.

TARIFF ITEM 97071-1

Existing Tariff Provisions

This drawback item relates to materials used in the production or repair of aircraft, aircraft engines, airborne aircraft equipment, or parts of all the foregoing, as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Materials of a class or kind not made in Canada	When used for the manufacture or repair of aircraft, aircraft engines, airborne aircraft equipment, or of parts of the foregoing
Portion of duty payable as drawback:	100 p.c.

The broad coverage of the item, insofar as goods eligible for drawback are concerned, is obvious from its wording. Like item 97053-1 (see supra), it is apparently designed to provide some compensation to domestic manufacturers of aircraft, aircraft engines, airborne aircraft equipment and parts of all the foregoing, for the advantages derived by importers from free entry of competing goods under tariff items 44045-1, 44049-1, 44053-1, 44057-1, 44059-1 (see supra), 44060-1 and 44061-1. However, unlike drawback item 97053-1, it is available also to those engaged in the repair of such competing goods, including the major airlines.

It will be noted that this drawback item does not cover the same products as are provided for in the duty-free items listed above, but applies rather to materials, not produced in Canada, used to make such goods. The wide coverage of drawback item 97071-1 is self-evident and renders it impossible to make further meaningful comments on the actual goods for which drawbacks are available.

There are no published data respecting drawbacks claimed or paid under, nor respecting import commodity classes relevant to, particular drawback items.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There is no available information regarding the extent to which the various rulings published in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 are relevant to this drawback item.

(b) Commodity Classes

In the absence of any detailed information regarding goods on which drawbacks have been granted, no meaningful listing of relevant commodity classes can be established.

Tariff Proposals

In a post-hearing supplementary submission, the Air Transport Association of Canada, representing the major domestic civilian air carriers (which also engage in the modification and repair of aircraft), proposes:

- (i) elimination of the "not made" provision of tariff item 97071-1;
- (ii) broadening of the scope of the "when subject to drawback" clause, so that the text of the item would be worded as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Materials of all kinds	When used for the manufacture, <u>service, repair, maintenance, conversion, rebuilding or modification</u> of aircraft, aircraft engines, airborne aircraft equipment or of parts of the foregoing.

The Association undertook to provide a list of materials on which drawback is now granted (not yet received).

The Air Industries Association of Canada, representing over 100 Canadian manufacturers, proposes retention of the item in a form which would continue to provide protection to domestic manufacturers of competing products. The Association undertook to supply a list of relevant goods presently eligible for drawback (not yet received).

Litton Systems Canada Limited of Rexdale, Ont., a manufacturer of aircraft equipment using mostly imported parts and components, indicates its belief that retention of duty-free access to goods not available from production in Canada would assist domestic manufacturers to maintain their competitive position in world markets.

Staff Appraisal

1. In the absence of any detailed information concerning the coverage of this item, the Board will have to make an arbitrary choice between three alternative recommendations regarding the goods to be subject to drawback - viz: (a) deletion of the whole item; (b) retention of the existing provision unchanged; or (c) deletion of the words "of a class or kind not made in Canada".

2. Alternative (c) would meet the wishes of the Air Transport Association, but would broaden the scope of the item and deprive Canadian manufacturers of relevant materials of any protection which they may now enjoy.

3. Regardless of the fate of this item, drawback of duties paid would continue to be available, without regard to the made-in-Canada status of the materials concerned, on imported materials used in the production of goods for export. However, alternative (c) would remove any protection on materials used in the manufacture of goods for domestic consumption or used for repair purposes.

4. The additional words proposed by the Air Transport Association for insertion in the "when subject to drawback" portion of the item, would be redundant if the existing provision for "repair" should be considered by the customs administration to be broad enough to embrace "service, maintenance, conversion, rebuilding or modification".

REFERENCE NO. 157

TARIFF ITEMS COVERING GOODS
MADE/NOT MADE IN CANADA

PHASE II

STAFF APPRAISAL
MACHINERY, EQUIPMENT, PARTS AND
ACCESSORIES USED IN THE MANUFACTURE
OF MOTOR VEHICLES

OCTOBER, 1983

TABLE OF CONTENTS

	<u>Page</u>
TARIFF PROVISIONS APPLYING TO MOTOR VEHICLES AND PARTS	
THEREOF: GENERAL INTRODUCTORY NOTE	32
REVIEW OF INDIVIDUAL TARIFF ITEMS	41
TARIFF ITEMS 43806-1 AND 43807-1	
Existing Tariff Provisions	42
Imports	43
Provisional Made-in-Canada Status of Goods	44
Tariff Proposals	50
Staff Appraisal	52
TARIFF ITEMS 43811-1, 43812-1, 43813-1, 43814-1, 43815-1	
AND 43816-1	
Existing Tariff Provisions	54
Imports	57
Provisional Made-in-Canada Status of Goods	58
Tariff Proposals	64
Staff Appraisal	68
TARIFF ITEMS 43819-1, 43820-1 AND 43821-1	
Existing Tariff Provisions	70
Imports	71
Provisional Made-in-Canada Status of Goods	72
Tariff Proposals	78
Staff Appraisal	81
TARIFF ITEMS 43824-1, 43825-1 AND 43826-1	
Existing Tariff Provisions	82
Imports	83
Provisional Made-in-Canada Status of Goods	83
Tariff Proposals	85
Staff Appraisal	87
TARIFF ITEM 41106-1	
Existing Tariff Provisions	88
Imports	92
Provisional Made-in-Canada Status of Goods	92
Tariff Proposals	94
Staff Appraisal	95

TABLE OF CONTENTS (CONCL.)

	<u>Page</u>
TARIFF ITEM 43861-1	
Existing Tariff Provisions	96
Imports	96
Provisional Made-in-Canada Status of Goods	96
Tariff Proposals	97
Staff Appraisal	97
TARIFF ITEM 43877-1	
Existing Tariff Provisions	98
Imports	98
Provisional Made-in-Canada Status of Goods	98
Tariff Proposals	108
Staff Appraisal	114
TARIFF ITEM 44560-1	
Existing Tariff Provisions	116
Imports	116
Provisional Made-in-Canada Status of Goods	116
Tariff Proposals	117
Staff Appraisal	117
TARIFF ITEM 97052-1	
Existing Tariff Provisions	118
Provisional Made-in-Canada Status of Goods	121
Tariff Proposals	121
Staff Appraisal	123

TARIFF PROVISIONS APPLYING TO MOTOR VEHICLES AND PARTS THEREOF:

GENERAL INTRODUCTORY NOTE

Provisions of Autopact

The tariff items in this group all relate to the automotive industry. As such, their application is subordinate to that of tariff items relating directly to the agreement with the United States embodied in the Autopact^(a) and given effect by the following provisions in Group XI of the Customs Tariff:

		<u>British Prefer- ential Tariff</u>	<u>Most- Favoured- Nation Tariff</u>
	1. The rates of Customs duties on the following goods imported into Canada on or after January 18, 1965 from any country entitled to the benefit of the British Preferential Tariff or Most-Favoured-Nation Tariff, for which a special entry in such form and manner as is prescribed by the Minister has been made, are reduced to the rate set out as follows opposite the description of those goods:		
95001-1	Automobiles, when imported by a manufacturer of automobiles	Free	Free
95002-1	All parts and accessories and parts thereof, except tires and tubes, when imported for use as original equipment in automobiles to be produced in Canada by a manufacturer of automobiles	Free	Free
95003-1	Buses, when imported by a manufacturer of buses	Free	Free
95004-1	All parts, and accessories and parts thereof, except tires and tubes, when imported for use as original equipment in buses to be produced in Canada by a manufacturer of buses	Free	Free
95005-1	Specified commercial vehicles, when imported by a manufacturer of specified commercial vehicles	Free	Free
95006-1	All parts, and accessories and parts thereof, except tires, tubes and machines or other articles required under tariff item 43803-1 to be valued separately under the tariff items regularly applicable thereto, when imported for use as original equipment in specified commercial vehicles to be produced in Canada by a manufacturer of specified commercial vehicles	Free	Free

(1) Agreement Concerning Automotive Products Between the Government of Canada and the Government of the United States of America, signed and entered into force provisionally January 16, 1965, in force definitively September 16, 1966.

- 2.(1) In this Order,
- (a) "automobile" means a four-wheeled passenger automobile having a seating capacity for not more than ten persons;
 - (b) "base year" means the period of twelve months commencing on August 1, 1963 and ending on July 31, 1964;
 - (c) "bus" means a passenger motor vehicle having a seating capacity for more than 10 persons or a chassis therefor; but does not include any following vehicle or chassis therefor, namely an electric trackless trolley bus, amphibious vehicle, tracked or half-tracked vehicle or motor vehicle designed primarily for off-highway use;
 - (d) "Canadian value added" has the meaning assigned by regulations made under section 273 of the Customs Act;
 - (e) "manufacturer" of vehicles of any following class, namely automobiles, buses or specified commercial vehicles, means, in relation to any importation of goods in respect of which the description is relevant, a manufacturer that
 - (i) produced vehicles of that class in Canada in each of the four consecutive three months' periods in the base year, and
 - (ii) produced vehicles of that class in Canada in the period of twelve months ending on July 31 in which the importation is made,
 - (A) the ratio of the net sales value of which to the net sales value of all vehicles of that class sold for consumption in Canada by the manufacturer in that period is equal to or higher than the ratio of the net sales value of all vehicles of that class produced in Canada by the manufacturer in the base year to the net sales value of all vehicles of that class sold for consumption in Canada by the manufacturer in the base year, and is not in any case lower than seventy-five to one hundred, and
 - (B) the Canadian value added of which is equal to or greater than the Canadian value added of all vehicles of that class produced in Canada by the manufacturer in the base year;
 - (f) "net sales value" has the meaning assigned by regulations made under section 273 of the Customs Act; and
 - (g) "specified commercial vehicle" means a motor truck, ambulance or hearse, or a chassis therefor, but does not include any following vehicle or chassis therefor, namely a bus, electric trackless trolley bus, fire truck, amphibious vehicle, tracked or half-tracked vehicle, golf or invalid cart, straddle carrier or motor vehicle designed primarily for off-highway use, or any machine or other article required under tariff item 43803-1 to be valued separately under the tariff item regularly applicable thereto.
- (2) For the purposes of paragraph (1)(e) of this section, in computing the net sales value of all vehicles of any class described in that subsection that were sold for consumption in Canada by a manufacturer

- (a) in the period of twelve months ending on July 31, 1965, there shall be deducted an amount equal to one and one-half times the net sales value of all vehicles of that class so sold by the manufacturer in that period that were imported into Canada or taken out of warehouse for consumption on or after January 18, 1965, and for which no special entry as described in section 1 of this Order was made; and
 - (b) in any subsequent period of twelve months ending on July 31, there shall be deducted an amount equal to the net sales value of all vehicles of that class so sold by the manufacturer in that subsequent period that were imported into Canada or taken out of warehouse for consumption on or after January 18, 1965, and for which no special entry as described in section 1 of this Order was made.
- (3) Where a manufacturer of vehicles of any following class, namely automobiles, buses or specified commercial vehicles has, by notice to the Minister in writing accompanied by the consent in writing of any other person, designated such other person as a person associated with the manufacturer in the production of vehicles of that class in Canada in the base year and in any subsequent period of twelve months ending on July 31 specified in the notice, which notice has been communicated to the Minister on or before a day not later than the thirtieth day after the commencement of the period so specified or, in the case of the period ending on July 31, 1965, after January 18, 1965, the person so designated shall, with respect to vehicles of that class, be deemed for all purposes of this Order in the base year and in the period so specified, not to be a separate person but to be one and the same person as the manufacturer.

Further information regarding the administration of the above items can be found in the following Revenue Canada, Customs and Excise, Departmental Memoranda, reproduced in the section of Background No. 11 headed "General Administrative Procedures":

<u>Memorandum No.</u>	<u>Title</u>
D10-8-6	Motor Vehicles Tariff Order, 1965, and Tariff Item 95000 (Entry of Motor Vehicles) Regulations.
D10-8-7	Classification of Goods Under Tariff Items 95002-1, 95004-1 and 95006-1.
D10-8-8	Remission of Customs Duty on Certain Motor Vehicles, Parts and Accessories and Parts Thereof.

Related Tariff Items

Many of the referred items contain cross-references to motor vehicles enumerated in the following tariff items, given here to avoid unnecessary duplication in the text which follows:

41006-1 Diesel-powered, self-propelled dump trucks, mounted on rubber-tired wheels or on rubber-tired wheels and half-tracks, having a rated capacity by struck volume of not less than 9 1/2 cubic yards, and by payload weight of not less than 15 tons, and parts thereof, for off-highway use in carrying minerals or other excavated materials at mines, quarries, gravel and sand pits or at construction sites

1/1/83	5 p.c.	9.6 p.c.	25 p.c.	5 p.c.	9.5 p.c.
1/1/87		9.2 p.c.*			
	* Bound rate				

42400-1 Fire engines and other fire extinguishing machines and chassis for same; complete parts other than chassis parts

1/1/83	Free	13.9 p.c.	35 p.c.	Free	10.2 p.c.
1/1/87		10.2 p.c.*			
	* Bound rate				

43803-1 Automobiles and motor vehicles of all kinds, n.o.p.; electric trackless trolley buses; chassis for all the foregoing

1/1/83	Free	12.1 p.c.	27.5 p.c.	Free	9.2 p.c.
1/1/87		9.2 p.c.*			
	* Bound rate				

Machines or other articles mounted on the foregoing or attached thereto for purposes other than loading or unloading the vehicle shall be valued separately and duty assessed under the tariff items regularly applicable thereto.

Virtually all the referred items relate to parts for the various types of motor vehicles listed in the three preceding tariff items. The principal residual provision for such parts is found in tariff item 43829-1, as follows:

43829-1 Parts, n.o.p., electro-plated or not, whether finished or not, for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses, or chassis enumerated in tariff items 42400-1 and 43803-1, including engines, but not including ball or roller bearings, wireless receiving sets, die castings of zinc, electric storage batteries, parts of wood, tires and tubes or parts of which the component material of chief value is rubber

1/1/83	Free	12.1 p.c.	35 p.c.	Free	9.2 p.c.
1/1/87		9.2 p.c.*			
	* Bound rate				

Overview of Referred Tariff Items

With respect to the referred tariff provisions, items 43811-1, 43812-1 and 43813-1 cover original equipment parts for the manufacture of passenger automobiles, while items 43814-1, 43815-1, 43819-1, 43820-1, 43824-1 and 43825-1 cover original equipment parts for the manufacture of motor trucks, motor buses, electric tractless trolley buses, fire-fighting vehicles, motor ambulances, hearses and chassis. On the other hand, tariff items 43816-1, 43821-1 and 43826-1 apply to parts for the repair of the noted vehicles, while item 41106-1 pertains to goods for use in the repair of self-propelled logging trucks. Tariff items 43806-1 and 43807-1, for their part, refer to the importation of parts for both the manufacture and repair of goods of tariff items 41006-1 (diesel-powered self-propelled dump trucks), 42400-1 (fire engines and other fire-extinguishing machines) and 43803-1 (passenger automobiles, trucks and all other motor vehicles not specified in the Customs Tariff). Two further items - viz: 43861-1 and 44560-1, make provision for bumper face bars and lamp bases respectively, while tariff item 43877-1 encompasses "not made" materials of all kinds used in the manufacture of passenger automobiles, buses, motor trucks, ambulances, hearses and parts and accessories thereof - i.e. the same categories of vehicles and components as are accommodated under the Autopact (see below). Finally, item 97052-1 provides for the drawback of duties with respect to machines, precision instruments, apparatus and control panels used in the production of motor vehicles and motor vehicle parts and accessories.

The introduction of the Autopact (APTA) tariff provisions in 1965 severely reduced the usefulness of the then-existing automotive-parts items and, indeed, left some without any significant area of practical application. In summary, the APTA authorizes manufacturers who were in existence during the base model year (1963-64) to import free of duty, specified vehicles and all parts except tires and tubes, for use in the manufacture of these vehicles. The importations may be effected by the producers themselves or their suppliers. Other firms which were not in existence in 1963-64 have since been designated as manufacturers for purposes of the APTA, being extended duty-remission privileges through Order-in-Council procedures. Both the APTA and the Orders in Council specify that the qualifying vehicles shall be: (1) passenger automobiles, (2) buses, or (3) motor trucks, ambulances or hearses. Chassis for buses, motor trucks, ambulances and hearses also qualify. Thus, the scope of the tariff items under review has been greatly diminished insofar as the classification of the named parts and their components for use in manufacturing APTA-specified vehicles is concerned. Of course, since the APTA does not cover repair parts, the scope of the referred items with respect to the aftermarket remains unchanged.

Electric trackless trolley buses, amphibious vehicles, tracked or half-tracked vehicles, motor vehicles designed primarily for off-highway uses, or motor vehicles, such as fire engines, specially constructed and equipped to perform special services or functions, are excluded from the Autopact, and parts for use in their manufacture remain under the above-mentioned referred tariff items. However, parts for use in the manufacture of these non-APTA vehicles may still be entered free of duty under tariff items 43814-1, 43815-1, and 43820-1, and at a reduced rate of duty under tariff item 43825-1, providing that the importing manufacturers are qualified in respect of criteria pertaining to British Commonwealth content and volume of production. In this regard, seven manufacturers of tracked vehicles, electric trackless trolley buses, fire trucks, all-terrain vehicles and airport crash trucks were authorized, in 1981, to use these items, under regulations prescribed by the Governor in Council. Furthermore, seven additional manufacturers of non-APTA vehicles were granted duty remission under the Off-Highway Truck Duty Remission Orders, with respect to parts classified under tariff items 43810-1, 43819-1 and 43824-1, as well as parts classified under other tariff provisions, mainly item 41006-1.

As a consequence of the Autopact, it is unlikely that Canadian importers would use tariff items 43806-1, 43807-1, 43811-1, 43812-1 and 43813-1 to import the relevant named parts for the manufacture of passenger automobiles. Similarly, it is not to be expected that parts for the manufacture of the other vehicles specified under the APTA - namely, buses, motor trucks, ambulances and hearses - would normally be entered under tariff items 43806-1, 43807-1, 43814-1, 43815-1, 43819-1, 43820-1, 43824-1 and 43825-1, importers generally preferring to use tariff items 95004-1 and 95006-1 providing for duty-free imports under the Autopact. Nevertheless, tariff items 43806-1, 43807-1, 43814-1, 43815-1, 43819-1, 43820-1, 43824-1 and 43825-1 still have relevance to manufacturers of non-APTA vehicles, while items 43806-1 and 43807-1 still maintain their importance so far as parts for repair purposes are concerned. However, inasmuch as there are no Canadian manufacturers producing more than 10,000 units of the non-APTA vehicles of tariff item 43815-1, that item cannot legitimately be used.

The following statistics relating to the value of importations under the referred items place them in perspective vis-à-vis total imports of the pertinent goods. As will be appreciated, however, the tariff items under review cover only the named parts and their components, whereas the Autopact covers all parts except tires and tubes. Furthermore, the tariff items under review cover mostly importations of parts for repair purposes, whereas the APTA is limited to importations of parts for manufacturing purposes.

VALUE OF IMPORTS OF AUTOMOTIVE PARTS BY TARIFF ITEMS, 1982

	<u>End Use</u>	<u>Value of Imports</u> <u>\$'000</u>
<u>Autopact Items</u>		
95002-1	Manufacture	6,528,892
95004-1	Manufacture	89,053
95006-1	Manufacture	<u>2,633,450</u>
		<u>9,251,395</u>
<u>Referred Items</u>		
41106-1	Repair	315
43806-1	Manufacture/Repair	79,836
43807-1	Manufacture/Repair	23,254
43811-1	Manufacture	438
43812-1	Manufacture	86
43813-1	Manufacture	1
43814-1	Manufacture	1,094
43815-1	Manufacture	26
43816-1	Repair	52,009
43819-1	Manufacture	30,591
43820-1	Manufacture	6,058
43821-1	Repair	143,081
43824-1	Manufacture	1,251
43825-1	Manufacture	25
43826-1	Repair	4,571
43861-1	Manufacture	304
43877-1	Manufacture	103,916
44560-1	Manufacture	1,177
97052-1	Manufacture	-
		<u>448,033</u>
<u>Related Items</u>		
43810-1	Manufacture/Repair	15,143
43829-1	Manufacture/Repair	524,616
43830-1	Manufacture/Repair	22
43832-1	Manufacture/Repair	1,822
43833-1	Manufacture/Repair	3,788
43842-1	Manufacture/Repair	4,905
43844-1	Manufacture/Repair	162
43845-1	Manufacture/Repair	4
43852-1	Manufacture/Repair	144
43863-1	Manufacture/Repair	1,204
43864-1(a)	Repair	10,489
43865-1	Manufacture/Repair	26
43872-1	Manufacture/Repair	<u>430</u>
		<u>562,755</u>
	Grand Total:	10,262,183

(a) This item (pertaining to engine "cores") was studied in Phase I of the present reference.

Source: Statistics Canada, Imports by Tariff Item, 1982 (computer printout).

While the above statistics are not fully comprehensive, they serve to demonstrate the overwhelming preponderance of automotive parts imports under the Autopact, approximately 90 per cent of all imports tabulated above being attributable to goods entering under tariff items 95002-1, 95004-1 and 95006-1. It is worthy of note that, in turn, this 90 per cent represented somewhat more than 13 per cent of the value of total imports into Canada in 1982. Of the remaining imports of automotive parts, non-referred item 43829-1 ("parts, n.o.p...") was responsible for substantially more than half, while

the bulk of the remaining goods can be traced to referred items 43821-1, 43806-1 and 43816-1. Two of these three tariff items are concerned with parts for repair purposes only, while item 43806-1 makes no distinction between manufacturing and repair applications. Thus, although a precise breakdown on the basis of end use is not possible, it seems very likely that, among the non-Autopact items, the aggregate value of imports of repair parts substantially exceeded that of goods for original equipment manufacture. In line with this assumption, only four of 18 submissions received with respect to automotive parts have indicated a particular interest in original equipment usage, as opposed to the aftermarket.

On the other hand, 32 parties have made submissions pertaining to the materials of tariff item 43877-1, while 15 have indicated an interest in item 97052-1 governing drawback of duty on production equipment. These latter representations are not altogether surprising. In 1982, the value of imports under item 43877-1 fell just short of \$104 million - a figure which, among the referred provisions, was exceeded only by the \$143 million of imports recorded to item 43821-1. Detailed information respecting the implementation of drawback provisions is, unfortunately, not readily available, but a rough calculation suggests that, in recent years, production equipment valued at the time of importation at some \$100-\$200 million per annum has been affected by these provisions.

In reviewing the complex situation presently existing, questions arise as to whether a rationalization of the pertinent elements of the Customs Tariff would not provide an appropriate way of dealing with certain of the tariff items under review. Should tariff items 43811-1, 43812-1 and 43813-1, which provide for duty-free entry of "not made" parts when for use in the manufacture of passenger automobiles, be maintained? Should tariff item 43815-1 be retained, when there are no Canadian manufacturers of non-APTA vehicles whose output exceeds 10,000 units? Should the duty-free entry of "not made" parts imported under the referred tariff items, for use as original equipment, be maintained, when it is estimated that imports of such parts represent one per cent or less of total automotive parts' imports? Since duty is not collected on the overwhelming majority of imports under the referred tariff items, is it necessary to maintain so many separate dutiable dispositions? Could the answer be to delete the manufacturing end use referred to in tariff items 43806-1, 43807-1, and 43810-1, as well as tariff items 43811-1, 43812-1, 43813-1, 43814-1, 43815-1, 43819-1, 43820-1, 43824-1 and 43825-1? Thus, the original equipment goods which are properly classified under these tariff items would fall under the basket provision of tariff item 43829-1, with a rate of duty being imposed on presently duty-free products and a slightly higher rate being levied on dutiable goods. Tariff items 43816-1, 43821-1 and 43826-1 could be maintained for goods of a class or kind not made

in Canada for use in the repair or manufacture of the "not made" repair parts, as could tariff item 43806-1 insofar as the repair end use is concerned. Goods of a class or kind made in Canada for repair usage and classifiable under tariff item 43807-1, would fall under tariff item 43829-1 at a slightly higher rate of duty, as would the repair parts of tariff item 43810-1.

The loss of duty-free privileges under tariff items 43811-1, 43812-1, 43813-1 and 43815-1, which in total accounted for considerably less than \$1 million of imports in 1982, would be more symbolic than real. Likewise, duty privileges presently available under tariff items 43806-1, 43814-1, 43820-1, and 43825-1, whose use has also been limited, could be maintained through Order-in-Council procedures. More fundamentally, a restructuring of the Customs Tariff could bring about a reduction in the number of tariff items, thus ending the need to distinguish between the made-in-Canada status of the same goods under the same tariff items depending upon whether they are for use in manufacturing, as opposed to repair activity.

In regard to the fears expressed by various interested parties, that the Autopact might some day be abrogated, thus giving point to the continued existence of the items in question, some comfort should be obtained from the apparent willingness of the government to issue Orders in Council providing for duty remission in respect of goods imported by Canadian producers excluded from the terms of the Autopact. A measure of the extent of such assistance is provided by a comparison of the customs duties potentially payable and those actually collected in relation to imports under dutiable referred items 43807-1, 43819-1, 43824-1, 43825-1 and 43826-1. At the prevailing rates of duty in 1982, these items should have yielded a total of \$6.3 million in customs duties; instead, only \$3.1 million is recorded as having been collected. A further \$5.0 million or so, should have been collected under tariff item 43829-1: in value terms, the most important tariff provision for automotive parts outside the Autopact.

REVIEW OF INDIVIDUAL TARIFF ITEMS

In the following pages the assembled facts and opinions derived from the submissions of interested parties and the Board's own research are set out and appraised on a tariff item-by-tariff item basis. In each instance, a review of the referred and related tariff provisions and relevant import statistics is followed by a provisional listing of pertinent commodity classes categorized according to their perceived made-in-Canada status. Next, the tariff proposals received by the Board are set out in point form. The concluding section in regard to each item, or combination of items, contains the staff's observations with respect to the foregoing evidence and the staff's appreciation of possible tariff solutions.

The rates of duty set out in the following pages, reading from left to right, are respectively those applicable under the British Preferential Tariff, the Most-Favoured-Nation Tariff, the General Tariff, the General Preferential Tariff, and the United Kingdom and Ireland Tariff.

TARIFF ITEMS 43806-1 AND 43807-1

Existing Tariff Provisions

Note: Tariff Items 43806-1 and 43807-1 apply to the following commodities.

Bearings, clutch release, with or without collar attached;
Bearings, graphite;
Bearings, steel or bronze backed, with non-ferrous metal lining, parts and materials therefor;
Bearings, steering knuckle thrust;
Bushings or sleeve bearings of bronze or powdered metal;
Bushings, graphited or oil impregnated;
Ceramic insulator spark plug cores not further manufactured than burned and glazed, printed or decorated or not, without fittings;
Collars, crankshaft thrust;
Compressors and parts thereof, air;
Commutator copper segments; commutator insulating end rings;
Tapered discs of hot-rolled steel, with or without centre hole, for disc wheels;
Diaphragms for fuel and vacuum pumps;
Distributor rotors and cam assemblies;
Door bumper shoes;
Electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, including brackets and fittings permanently attached thereto, but not to include battery terminals;
Gaskets of any material except cork or felt, composite or not, parts and materials therefor;
Ignition contact points;
Keys for shafting;
Auxiliary driving control kits, designed for attachment to motor vehicles to facilitate their operation by physically disabled persons, and parts thereof;
Laminated composition plastic timing gear blanks;
Lenses of glass for motor vehicle lamps and for light reflectors;
Lock washers;
Magnetic plugs;
Metal frames for convertible soft tops;
Permanent mould pistons for brake master cylinders;
Piston ring castings in the rough, with or without gates and fins removed;
Propeller shaft tubes of steel bonded by rubber;
Rails of lock seam section, corners, locks and catches, unplated ventilators and parts thereof, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies;
Shift control, electric, for two speed rear axles;
Steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof;
Switches, relays, circuit breakers and solenoids and combinations and parts thereof, including starter switch assemblies;
Synchronizing cones or blocking rings for transmissions;
Vacuum, hydraulic or air control assemblies and parts thereof;
Vulcanized fibre in sheets, rods, strips and tubings;
Parts of all the foregoing;

All of the foregoing for use in the manufacture or repair of goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or for use in the manufacture of parts therefor:

43806-1	When of a class or kind not made in Canada				
	Free	Free	30 p.c.	Free	Free
43807-1	When of a class or kind made in Canada				
1/1/83	Free	10.3 p.c.	30 p.c.	Free	8 p.c.
1/1/87		8 p.c.			

These two items cover the same list of goods for use in the manufacture or repair of certain vehicles, with a distinction being drawn on the basis of the made-in-Canada status of the pertinent products. The vehicles to be manufactured or repaired encompass diesel-powered self-propelled dump trucks, fire engines, automobiles and motor vehicles of all kinds n.o.p., and electric trackless buses. These are described in terms of tariff items 41006-1, 42400-1 and 43803-1, the texts of which will be found in the General Introductory Note, supra. Because tariff items 43806-1 and 43807-1 apply, in part, to goods for use as original equipment, they would be subordinate in this regard to items 95004-1 and 95006-1. It should be noted that parts of the goods named in the common nomenclature of items 43806-1 and 43807-1 stand on their own insofar as their made-in-Canada status is concerned. Under the "not made" item a M.F.N. rate of Free was bound under the MTN. Under the "made" item, the M.F.N. rate, now 10.3 p.c., has been bound at 8 p.c.

In the absence of these two tariff items, most of the goods in question would fall under tariff item 43829-1 ("parts, n.o.p., ... for automobiles, motor vehicles, electric trackless trolley buses, fire fighting vehicles, ambulances and hearses ..."), which has a bound rate of 9.2 p.c. However, products excluded from that item would be classifiable elsewhere in the Customs Tariff, often under items with bound rates of 10.2 p.c. The provisions of items 95004-1, 95006-1 and 43829-1 are given in the General Introductory Note, supra.

Imports

The value of imports under each of the items under present review has been substantial, with item 43806-1 generally accounting for between three-quarters and four-fifths of the combined total. For the years 1979-81, the annual value of imports under item 43806-1 averaged \$84.9 million compared to \$23.1 million under item 43807-1. In 1982, the corresponding figures were \$79.8 million and \$23.3 million respectively.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 covers the made-in-Canada status of some of the goods and parts of goods classifiable under tariff items 43806-1 and 43807-1. In addition, Memorandum D10-8-19 sets out the made-in-Canada status of a long list of spring brake parts classifiable under these items.

(b) Commodity Classes

The following listing, based principally upon information contained in Background No. 11, Table 4, sets out the provisional made-in-Canada status of goods falling under the two aforementioned tariff items.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
For use in the manufacture or repair of goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or for use in the manufacture of parts therefor	
504-01-35 Bearings, clutch release, with or without collar attached	Not Made
504-01-89 Bearings, graphite	Made
504-01-89 Bearings, steel or bronze backed, with non-ferrous metal lining, parts and materials therefor	Not Made
504-01-89 Bearings, steering knuckle thrust	Made
504-01-89 Bushings or sleeve bearings of bronze or powdered metal	Not Made
504-01-89 Bushings, graphited or oil impregnated	Uncertain*
495-05-40 Ceramic insulator spark plug cores not further manufactured than burned and glazed, printed or decorated or not, without fittings	Not Made
588-34-10) Collars, crankshaft thrust 588-49-10)	Made
588-04-10) Compressors and parts thereof, air 588-19-90) Stationary compressors for use in supplying air 589-96-89 for starting internal combustion engines Stationary compressors for use in supplying air to air brakes	Not Made* Not Made*
589-99-89 High pressure, low capacity, reciprocating compressors for recharging breathing apparatus; reciprocating refrigeration compressors over 30 hp Other	Not Made* Made

588-34-10)	Commutator copper segments; commutator	
588-49-10)	insulating end rings	Not Made
589-99-89	Tapered discs of hot-rolled steel, with or without centre hole, for disc wheels	Made
588-34-10)	Diaphragms for fuel and vacuum pumps	Uncertain*
588-49-10)		
689-95-29	Distributor rotors and cam assemblies	
	Ignition distributor rotors	Made*
	Other	Made*
589-99-89	Door bumper shoes	Made
	Electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, including brackets and fittings permanently attached thereto, but not to include battery terminals	
	For internal combustion engines:	
689-95-89	Electric wiring terminals, sockets, fittings and connectors	Not Made
689-89-90	Combinations thereof	Made
689-95-89	Parts thereof	Not Made
	For other uses:	
589-99-89	Electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof	Uncertain*
	Gaskets of any material except cork or felt, composite or not, parts and materials therefor	
	Gaskets:	
325-36-20	Gaskets, rubber, including rubber gaskets for spark plugs	Made
474-24-44	Gaskets, asbestos	Made*
496-52-40	Gaskets, fabric, not further identifiable	Made
496-52-50	Gaskets, metal, not further identifiable	Made*
496-52-60	Gaskets, paper, not further identifiable	Made
496-52-80	Gaskets, kits or sets, not further identifiable	Made*
496-52-90	Gaskets, nes, except rubber and asbestos	Made*
	Parts of gaskets:	
588-49-10	Steel formed bottoms for cylinder heads or manifold gaskets	Not Made*
	Metal grommets (flanges) or rings of steel, copper or brass for cylinder heads or manifold gaskets	Not Made*
	Blank layers of steel for cylinder heads or manifold gaskets	Not Made*
	Materials for gaskets:	
474-24-20	Compressed asbestos	Made*
496-52-20	Gasket stock of two or more materials	
	-combination of asbestos and styrene-butadiene rubber (SBR)	Made*
	-combination of asbestos and synthetic rubbers	Made*
	-other	Not Made*

689-95-29	Ignition contact points	Made
589-95-89	Keys for shafting	Not Made
589-99-89	Auxiliary driving control kits, designed for attachment to motor vehicles to facilitate their operation by physically disabled persons, and parts thereof	Not Made
588-34-10) 588-49-10)	Laminated composition plastic timing gear blanks	Not Made
681-66-88	Lenses of glass for motor vehicle lamps and for light reflectors	Not Made
	Lock washers	
465-26-35	Washers, lock, steel -with internal or external teeth -helical spring lock washers with an inside diameter greater than 1 1/2" -other	Not Made Not Made* Made
465-26-45	Washers of any metal, except steel	Not Made*
465-75-90	Magnetic plugs	Not Made
589-99-19	Metal frames for convertible soft tops	Not Made
589-96-89	Permanent mould pistons for brake master cylinders	Not Made
588-34-10) 588-49-10)	Piston ring castings in the rough, with or without gates and fins removed	Made
588-34-10) 588-49-10)	Propeller shaft tubes of steel bonded by rubber	Not Made
589-98-29	Rails of lock seam section, corners, locks and catches, unplated ventilators and parts thereof, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies	Made
589-95-89	Shift control, electric, for two speed rear axles	Not Made
	Steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof	
465-06-49	Bolts, steel, nes, with or without nuts	Made
	Steel studs and steel plugs	Made
465-08-69	Nuts, steel, nes	Made
465-49-79	Rivets, nes, steel	Made
-	Parts of steel bolts, studs, plugs, rivets or nuts	Uncertain*
	Switches, relays, circuit breakers and solenoids and combinations and parts thereof, including starter switch assemblies	
	For internal combustion engines:	
689-89-20	Circuit breakers, automotive type	Not Made
689-89-90	Switches, relays, circuit breakers and solenoids and combinations thereof	Not Made
689-95-60	Switches, ignition	Not Made
689-95-89	Parts of switches, relays, circuit breakers and solenoids	Not Made

For other uses:

589-99-89	Automotive turn signal flasher units	Made*
	Other switches, relays, circuit breakers and solenoids and combinations and parts thereof	Uncertain*
589-95-89	Synchronizing cones or blocking rings for transmissions	Not Made
	Vacuum, hydraulic or air control assemblies and parts thereof	
	Vacuum, hydraulic or air control assemblies:	
589-96-19	Spring brakes (also called emergency brakes, parking brakes, spring parking brakes and spring actuators), as are used on trucks, buses, trailers and off-highway equipment	Made*
	Other vacuum, hydraulic or air control assemblies	Not Made*
	Parts of vacuum, hydraulic or air control assemblies:	
425-15-80	Nylon (polyamide) air brake tubing	Made*
448-28-40)	Electric weld tubing, with O.D. 3/8" or less and wall thickness .028" or less	Made*
448-28-90)		
448-29-89	Double wall copper brazed tubing, with O.D. 3/8" or less and wall thickness .028" or less	Made*
504-85-30	Hydraulic gear pumps to operate hoists and other accessories	Made*
588-49-10	Positive crankcase ventilation (PCV) valves, as parts of vacuum control assemblies	Not Made*
589-96-3)	Wheel cylinder assemblies, as parts of hydraulic control assemblies	Not Made*
589-96-59	Brake calipers, as parts of hydraulic control assemblies	Not Made*
589-96-89	Hydraulic brake hoses; hydraulic brake locks; air chambers for truck air brakes in size range 15" x 3" to 16.5" x 7"	Made*
	Parts of spring brakes - viz: o'rings, springs, clamp band or clamp ring assemblies, dust or waterproof plugs, cotter pins, clevis pins, yokes, brackets, nylon bushings, pistons, push-rods, piston assemblies, housings, spring housings, housing assemblies, adaptor housings, non-pressure housings, service chambers, non-pressure chambers, aluminum or steel pressure plates, cylinder assemblies, cylinder cases, head assemblies, release bolts, breather caps	Made*
	Master cylinders as parts of hydraulic control assemblies; brake master cylinders as parts of air control assemblies; permanent mould pistons for brake master cylinders; clutch master cylinders, as parts of air control assemblies	Not Made*
	Parts of spring brakes - viz: spring locators, bulkheads, spring retainers, diaphragms	Not Made*
424-87-10)	Vulcanized fibre in sheets, rods, strips and tubings	Made
475-77-10)		
	Parts of all the foregoing	
689-95-29	Parts of ignition contact points	Made*
-	Parts of other goods	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

The above listing incorporates a substantial number of changes from that originally published in Table 4. In the first place, a detailed review of the products listed in this table in the context of the relevant tariff nomenclature has brought to light a number of omissions and commodity misclassifications. In the latter regard, commodity classes 504-01-49 and 504-01-88 have been deleted from the listings of both "made" and "not made" goods, since the various types of bearings at issue are believed to be otherwise provided for in 504-01-89. Further, vacuum, hydraulic or air control assemblies, are now listed against c.c. 589-96-19 ("brake assemblies, power"), c.c. 588-34-10 and 588-49-10 being deleted as inappropriate classifications for these goods. For the same reason, c.c. 507-11-89, covering industrial air compressors, has also been deleted and replaced by c.c. 588-04-10, 588-19-90, 589-96-89 and 589-99-89. At the same time, reciprocating refrigeration compressors over 30 hp (with a "not made" designation) have been added to the goods coded to the latter commodity class. The commodity classes listed in Table 4 with respect to electric wiring terminals, sockets and related products (c.c. 689-89-90 and 689-95-89) and switches, relays and associated goods (c.c. 689-89-20, 689-89-90, 689-95-60 and 689-95-89) have reference only to electrical equipment for use with internal combustion engines. In order to encompass other applications, the pertinent goods are listed again, with an "uncertain" made-in-Canada designation, under c.c. 589-99-89 ("motor vehicle parts and accessories nes"). Also under this commodity code, reference is now made to "parts" of auxiliary driving control kits, this provision having been inadvertently omitted from Table 4. Likewise, "parts" of steel bolts and suchlike goods (c.c. 465-06-49 et al) are now specified, an "uncertain" made-in-Canada identity being attached thereto. Further, in order to cover lock washers of metal other than steel, c.c. 465-26-45 has been added to the original listing, with a provisional "not made" designation borrowed from the Board's earlier review of tariff item 44059-1.

Secondly, in a number of instances, product descriptions have been elaborated and made-in-Canada designations have been changed in the light of representations made to the Board. Thus, in recognition of the particular production interest of Thermoset Plastics Ltd. of Belleville, Ont., ignition distributor rotors are now specified as a "made" sub-class of distributor rotor and cam assemblies (c.c. 689-95-29). Likewise, the commodity description "gaskets, rubber", associated with c.c. 325-36-20, has been expanded so as to cater specifically to the manufacturing interest of Fram Canada Inc. of Stratford, Ont., in rubber gaskets for spark plugs. In the same general product area, the made-in-Canada status of various categories of gaskets coded to c.c. 474-24-44, 496-52-50, 496-52-80 and 492-52-90 has been changed from "not made" to "made" in response to representations from Hayes-Dana Inc., Victor Products, St. Thomas, Ont. On the basis of information provided by the same firm, various parts of gaskets - i.e. steel formed bottoms, metal flanges or rings of steel, copper or brass, and blank layers of steel for cylinder heads - are also listed as "not made" (under c.c. 588-49-10). However, while

Hayes-Dana also concludes that, as a general rule, materials for gaskets are "not made", exceptions to this designation have been made in the case of compressed asbestos (c.c. 474-24-20) and certain combinations of asbestos and rubber (c.c. 496-52-20), which Garlock of Canada Ltd., Toronto, Ont., claims, in a post-hearing submission, to manufacture. Other goods to which a "made" appellation is now attached as a result of representations by interested parties are small diameter tubing (c.c. 448-28-40, 448-28-90 and 448-29-89) brought to the Board's attention by Bundy of Canada Limited, Bramalea, Ont., and air chambers for truck air brakes in a given size range (c.c. 589-96-89) manufactured by Rockwell International of Canada Ltd., Toronto, Ont. These goods are listed as parts of vacuum, hydraulic or air control assemblies. Although not a producer of the goods at issue, Wagner Brake Company Limited of Bramalea, Ont., notes that automotive turn signal flasher units and hydraulic brake hoses have been ruled as "made" under tariff item 43807-1. This designation is accordingly registered against these goods, categorized under c.c. 589-99-89 and 589-96-89 as switches, relays etc., and parts of hydraulic assemblies respectively. On the other hand, as an importer and distributor of various automotive aftermarket products, Wagner draws attention to the entry under "not made" item 43806-1 of wheel cylinder assemblies (c.c. 589-96-39), brake calipers (c.c. 589-96-59) and master cylinder assemblies (c.c. 589-96-89), as parts of hydraulic control systems. Further, in the same general product area, Volkswagen Canada Inc., of Scarborough, Ont., refers to importations under the aforementioned tariff item of brake master cylinders and clutch master cylinders (c.c. 589-96-89), being parts of air control assemblies; while Fram Canada Inc. of Stratford, Ont., cites the like entry of positive crankcase ventilation (PCV) valves (c.c. 588-49-10), understood to be used in vacuum control assemblies. The original listing of goods has been amended so as to reflect these various representations. Also, as a consequence of Volkswagen's submission, the made-in-Canada status of bushings (c.c. 504-01-89) and diaphragms for fuel and vacuum pumps (c.c. 588-34-10 and 588-49-10) has been changed from "made" to "uncertain". On the other hand, it is felt that more positive evidence is required before reducing the list of "made" goods further along the lines seemingly desired by the Motor Vehicle Manufacturers' Association. The only goods encompassed by tariff items 43806-1 and 43807-1 which the Association is apparently willing to concede are made in Canada for purposes of the present inquiry, are: gaskets of any material except cork or felt, composite or not, parts and materials therefor; ignition contact points; steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof; and parts of all the foregoing.

Finally, where no evidence to the contrary has been presented, the information contained in Table 4, Background No. 11 has been expanded or otherwise modified in the light of "made-in-Canada" rulings published in National Revenue, Customs and Excise, Departmental Memoranda D10-8-19 and D11-1-1. It is, however, worthy of note that a substantial proportion of these rulings have been in existence for more than 18 years, and thus pre-date

the Autopact and subsequential changes in this sector of the economy. Attention has already been drawn to "made" rulings applying to automotive turn signal flasher units and hydraulic brake hoses. Other goods now categorized as "made" on the basis of the aforementioned administrative declarations encompass: spring brakes (regarded as vacuum control assemblies and coded to c.c. 589-96-19); nylon (polyamide) air brake tubing, hydraulic gear pumps, hydraulic brake locks, and a range of spring brake parts (being "parts of vacuum, hydraulic or air control assemblies", coded variously to c.c. 425-15-80, 504-85-30 and 589-96-89), and parts of ignition contact points (listed under "parts of all the foregoing" and covered by c.c. 689-95-29). On the other side of the equation, helical spring lock washers with an inside diameter greater than 1 1/2 inches (c.c. 465-26-35) and various other parts of spring brakes have been accorded a "not made" identity in keeping with administrative rulings.

Tariff Proposals

The Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., in a proposal encompassing tariff items 43806-1, 43807-1, 43816-1, 43821-1 and 43826-1, favours:

- (i) eo nomine listings as the "mainstay alternative" to made/not made in Canada criteria;
- (ii) listing only "made" goods, "all others in Group 6 tariff items, therefore, being accorded duty-free status in a single, n.o.p. item";
- (iii) initially, listings based upon historic "made/not made" criteria;
- (iv) classifying parts in accordance with the classification of the associated principal goods;
- (v) provision of a mechanism to allow "a process of updating the items listed to reflect changing circumstances", without having to wait for parliamentary approval;
- (vi) in regard to the goods presently covered by tariff items 43806-1 and 43807-1, for the uses named therein, initially listing the following products as "made":

Gaskets of any material except cork or felt, composite or not, parts and materials therefor;
Ignition contact points;
Steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof;
Parts of all the foregoing.

In an individual submission, Volkswagen Canada Inc. recommends:

- (i) introduction of a new duty-free tariff item covering certain specified parts, currently classifiable under items 43806-1 and 43816-1, when for use in the repair and maintenance of passenger cars (a companion item is also proposed with respect to parts for motor trucks);
- (ii) this new item should include the following parts presently imported under tariff item 43806-1:

Bearings, clutch release;
Bearing shells for crankshafts and camshafts;
Bushings of bronze or powdered metal;
Bushings, graphited or oil impregnated;
Diaphragms for fuel and vacuum pumps;
Electric wiring terminals (including fuse boxes) and sockets (bulb holders);
Lenses of glass for motor vehicle lamps and light reflectors;
Magnet plugs for transmissions;
Switches (not including toggle switches), relays for horns, headlights, sensors, starters, heaters, TDC's, logics, wipers and fans;
Vacuum control assemblies, and clutch master cylinders and brake master cylinders (as parts of air control assemblies);
Parts of all the aforementioned;

- (iii) establishment of a "blanket" dutiable item covering "parts, not otherwise provided [for], for repair and maintenance of motor vehicles in Canada" (this item to replace tariff items 43807-1, 43810-1 and 43829-1);
- (iv) addition or deletion by the Department of Finance of specific parts, "to accommodate production or lack of it in Canada" (it being envisaged that "this could be achieved annually at budget time upon request from interested parties").

Wagner Brake Company Limited suggests:

- (i) deleting from tariff item 43806-1 the clause "of a class or kind not made in Canada";
- (ii) listing in a replacement item, wheel cylinder assemblies, brake calipers, master cylinder assemblies, circuit breakers, and parts of the foregoing, when for use in the repair of motor vehicles;
- (iii) naming automotive turn signal flasher units and hydraulic brake hoses in a provision for "made" goods rather than relegating them to a catch-all item.

Fram Canada Inc., which both assembles and resells imported automotive parts, advocates:

- (i) introduction of an eo nomine "general purpose tariff item" providing for the duty-free entry of parts and materials when imported by manufacturers of automotive parts for use in their own factories;
- (ii) introduction of a "basket item", carrying "a reasonable rate of duty", covering parts to be sold in the condition as imported, worded: "finished parts to be used in the repair and maintenance of motor vehicles";
- (iii) this latter item should not provide for "parts of the foregoing", as "this would conflict with the eo nomine item also proposed above".

Hayes-Dana Inc., Victor Products, requests:

- (i) continuation of the opportunity to import materials for gaskets free of duty;
- (ii) provision for future duty-free treatment of such materials when they "are not readily available from production in Canada".

Bundy of Canada Limited asks that, irrespective of end use (as original equipment or in the aftermarket), the small diameter tubing which it manufactures should be made dutiable and described in the following terms:

Pipe lines of tubing, rigid, covered or not, with or without fittings, and having a diameter of 3/8" or less and wall thickness of .028" or less.

Thermoset Plastics Ltd. queries whether non-referred item 43829-1, which already provides for distributor caps, is not a more appropriate tariff classification for distributor rotors than item 43807-1, the two items having much in common "in terms of materials, function, method of manufacture, manufacturing and distribution".

Staff Appraisal

1. A provisional "made/not made" identity has been established with respect to almost all of the goods enumerated in tariff items 43806-1 and 43807-1. However, most of the "made" designations have been disputed, either explicitly or implicitly, by the Motor Vehicle Manufacturers' Association and/or by Volkswagen Canada Inc. In a number of instances the point at issue appears to be whether the goods in dispute are intended for original equipment usage or for repair purposes.

2. Some of the submissions made to the Board seek to impose a distinction in the individual commodity provisions of the Customs Tariff between goods for use as original equipment and goods for sale in the aftermarket. However, the nomenclature of the two items under review draws no such distinction, while to proceed along the lines suggested would not only make for an involved tariff solution in terms of commodity descriptions but would also add considerably to the work and complexities of customs administration.

3. The most obvious solution in the present instance is the development of two eo nomine tariff items, listing "made" goods and "not made" goods respectively.

4. Another possibility would be to limit the replacement provisions to goods imported for repair purposes only, allowing the "made" goods for use as original equipment to fall elsewhere in the Customs Tariff, primarily under tariff item 43829-1 (bound at 9.2 p.c.). Preferential provision for "not made" original equipment goods could be provided through other mechanisms available to the Minister of Finance (e.g. by extending eligibility for entry under the 95000 series and/or by making use of remission/drawback procedures). All "not made" original equipment goods bypassed by such arrangements might be provided for in a duty-free catch-all item providing for any such goods encompassed by these and other referred items.

5. The largest number of uncertainties with respect to made-in-Canada status relate to parts of the enumerated products. Those parts whose status has been determined could be added to the appropriate eo nomine listing. In the absence of further information, the remaining parts could be classified on the basis of the made-in-Canada designation of associated principal products.

6. The suggestion put forward by the Motor Vehicle Manufacturers' Association and Volkswagen Canada Inc. for the periodic updating of eo nomine listings for the purpose of accommodating changing production circumstances, would leave an element of flexibility in relation to the administration of these items which, it is felt, might be difficult to justify in light of the terms of reference provided by the Minister. Moreover, with the prime exception of various unidentified parts of the goods encompassed by the referred items, the pertinent products require little or no further identification, while their made-in-Canada status has already been substantially determined.

7. Auxiliary driving control kits could be deleted from the replacement provisions for items 43806-1 and 43807-1, inasmuch as tariff item 47815-1 provides for the same goods.

TARIFF ITEMS 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 AND 43816-1

Existing Tariff Provisions

These six items, together with tariff item 43810-1, constitute a group of seven items applicable to the same goods, for various specified end uses. The seven items are as follows:

Note: Tariff Items 43810-1, 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 and 43816-1 apply to the following commodities.

Ammeters;
Arm rests and wheel housing lining of indurated fibre,
pressed to shape;
Axle housings, one piece welded, machined or not, including
parts welded thereto;
Carburetors;
Chassis frames and steel shapes for the manufacture there-
for;
Cigar and cigarette lighters, whether in combination with a
cigarette holder or not, including base;
Composite frame and floor structure of metal in the rough;
Control ventilator gear box;
Cylinder lock barrels, with or without sleeves and keys
therefor;
Dash heat indicators;
Door opening weatherseal retainers;
Engine speed governor units;
External ornaments unplated, including name plates, letters
and numerals, but not including finish or decorative
mouldings;
Fluid couplings with or without drive plate assemblies;
Gauges, gasoline, oil or air;
Grilles not plated, polished or not before assembly, and
parts thereof not plated or polished after final forming,
casting or piercing, not including added finish or
decorative mouldings;
Hinges, finished or not, for bodies;
Horns;
Instrument bezel assemblies; instrument board lamps;
instrument panel, glove compartment, luggage compartment,
hood compartment and door step lamps and wire assemblies;
Instrument board panels of moulded or laminated glass
fibres and plastic;
Locks, electric ignition, steering gear, transmission, or
combinations of such locks;
Mouldings of metal, with nails or prongs set in position,
lead filled or not;
Oil filter parts, namely: perforated filter refill oil
board bodies, refill end discs, and roll-seam perforated
tubes;
Ornaments and identification plates of metal, unplated, not
including finished or decorative mouldings;
Pipe lines of tubing, rigid, covered or not, with or without
fittings, and tubing therefor;
Purifiers for gasoline, including brackets and fittings
therefor;
Radiator shutter assemblies, automatic;
Radiator water gauges;
Radiator shells not plated nor metal finished in any degree;
Reclining seat mechanisms;
Shackles, bearing spring;
Speedometers;

Spring covers of metal and closing strips or shapes therefor;
Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles, of plain or coated metal, in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree, including such stampings incorporating pierce or clinch nuts;
Steering wheels, rims and spiders therefor;
Sun visor blanks of gypsum weatherboard;
Swivel seat mechanisms;
Tachometers, with or without tachographs, both electric and gear driven;
Thermostatic controls;
Throttle, spark, choke, and hood lock release assemblies, including buttons therefor;
Torque converters;
Auxiliary transmission overdrive units and controls therefor;
Universal joint ball assemblies;
Windshield and window wipers;
Parts of all the foregoing, including brackets, fittings and connections therefor;

43810-1 All of the foregoing when for use in the manufacture or repair of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or for use in the manufacture of parts therefor

1/1/83	Free	10.3 p.c.	30 p.c.	Free	8 p.c.
1/1/87		8 p.c.			

43811-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of passenger automobiles (having a seating capacity for not more than ten persons each) enumerated in tariff item 43803-1, whose total factory output, during the year in which importation is sought, does not exceed ten thousand such complete passenger automobiles, and if not less than forty per cent of the factory cost of production of such automobiles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43812-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of passenger automobiles (having a seating capacity for not more than ten persons each) enumerated in tariff item 43803-1, whose total factory output, during the year in which importation is sought, exceeds ten thousand, but does not exceed twenty thousand such complete passenger automobiles, and if not less than fifty per cent of the factory cost of production of such automobiles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43813-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of passenger automobiles (having a seating capacity for not more than ten persons each) enumerated in tariff item 43803-1, whose total factory output, during the year in which importation is sought, exceeds twenty thousand such complete passenger automobiles, and if not less than sixty per cent of the factory cost of production of such automobiles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43814-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, motor ambulances, and hearses, or chassis for same, as enumerated in tariff items 41006-1, 42400-1 and 43803-1, whose total factory output of such vehicles during the year in which importation is sought, does not exceed ten thousand such vehicles, and if not less than forty per cent of the factory cost of production of such vehicles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43815-1 If the above articles, when of a class or kind not made in Canada, are for use as original equipment by a manufacturer of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, motor ambulances and hearses, or chassis for same, as enumerated in tariff items 41006-1, 42400-1 and 43803-1, whose total factory output of such vehicles during the year in which importation is sought, exceeds ten thousand units, and if not less than fifty per cent of the factory cost of production of such vehicles, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

43816-1 If the above articles are of a class or kind not made in Canada, and are for use in the repair of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, or are for use in the manufacture of repair parts therefor, the rates of duty under this item shall be

Free	Free	25 p.c.	Free	Free
------	------	---------	------	------

The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items 43810-1, 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 and 43816-1.

It should be noted, with respect to the referred tariff items 43811-1 to 43816-1 inclusive, that the "not made in Canada" criterion applies not only to the named goods but also to their parts, including brackets, fittings and connections therefor. Thus, to qualify, each part of a named product must be

"of a class or kind not made in Canada". While all of these items have reference to the same body of goods, they are distinguished from each other on the basis of (i) usage - notably, whether the goods are for manufacturing and/or repair purposes, (ii) the category (or categories) of motor vehicle(s) produced and/or repaired, (iii) in the case of goods for use as original equipment - the manufacturer's volume of output, and (iv) the manufacturer's degree of reliance upon inputs of British Commonwealth origin. Insofar as tariff items 43810-1 to 43815-1 relate to original equipment parts, they are subordinate to the provisions of tariff items 95002-1, 95004-1 and 95006-1. Tariff item 43816-1 refers to repair parts and goods for use in the manufacture of repair parts, if "of a class or kind not made in Canada". The latter item is bound at Free, as are item 43811-1 to 43814-1. In the case of item 43810-1, which is otherwise less circumscribed than the other items in the group, the bound (1987) M.F.N. rate has been set at 8 p.c.

The regulations for the administration of these items are set forth in Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-4. This explains the method of determining the proportion of costs that can be claimed as being of British Commonwealth origin, and prescribes the declarations to be made by manufacturers of goods for which parts are claimed for entry under tariff items 43811-1, 43812-1, 43813-1, 43814-1 and 43815-1. The said manufacturers have the option of entering the goods under item 43810-1 and claiming an annual refund for goods found to have qualified under the alternative items.

It will be noted that tariff item 43810-1, which was not referred to the Board and which covers parts for manufacture or repair, serves as the first alternative to all the other items for goods not qualifying for entry thereunder. In the absence of the entire group, those parts qualifying under its wording would be covered by tariff item 43829-1, with a bound rate of 9.2 p.c.; goods excluded from that item would be dutiable under items elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c. The provisions of tariff items 95002-1, 95004-1, 95006-1 and 43829-1, are given in the General Introductory Note, supra.

Imports

In recent years item 43816-1 has accounted for between three-quarters and four-fifths of the value of total imports under the seven aforementioned tariff items, with non-referred ("made") item 43810-1 accounting for the overwhelming bulk of the remainder.

Value of Imports, 1979-82 (\$'000)

<u>Tariff Item</u>	<u>Average 1979-81</u>	<u>1982</u>
43810-1	13,914	15,143
43811-1	219	438
43812-1	37	86
43813-1	1	1
43814-1	310	1,094
43815-1	63	26
43816-1	57,036	52,009

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

The made-in-Canada status of some of the goods under review is treated in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1.

(b) Commodity Classes

The following listing, based principally on the information contained in Background No. 11, Table 4, sets out the provisional made-in-Canada status of goods falling under the six referred tariff items.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
589-99-89 Ammeters	Not Made
589-97-49 Arm rests and wheel housing lining of indurated fibre, pressed to shape	Made
589-95-49 Axle housings, one piece welded, machined or not, including parts welded thereto	Made
589-99-89 Carburetors	Made
589-99-19 Chassis frames and steel shapes for the manufacture therefor	Made
589-99-89 Cigar and cigarette lighters, whether in combination with a cigarette holder or not, including base	Not Made
589-99-29 Composite frame and floor structure of metal in the rough	Not Made
589-94-89 Control ventilator gear box	Not Made
465-75-30 Cylinder lock barrels, with or without sleeves and keys therefor	Not Made
589-99-89 Dash heat indicators	Not Made
589-99-89 Door opening weatherseal retainers	Made
588-34-10) Engine speed governor units 588-49-10)	Not Made

589-97-39) 949-99-24)	External ornaments unplated, including nameplates, letters and numerals, but not including finish or decorative mouldings	Made
589-95-89	Fluid couplings with or without drive plate assemblies	Not Made
589-99-89	Gauges, gasoline, oil or air	Not Made
589-98-29) 589-98-89)	Grilles not plated, polished or not before assembly, and parts thereof not plated or polished after final forming, casting or piercing, not including added finish or decorative mouldings	Not Made
465-75-20	Hinges, finished or not, for bodies Concealed or semi-concealed hinges for entrance doors, helical hinges for trunk lids, and continuous or piano hinges Other	Not Made Uncertain*
720-59-64	Horns	Not Made
682-62-49	Instrument bezel assemblies; instrument board lamps; instrument panel, glove compartment, luggage compartment, hood compartment and door step lamps and wire assemblies Instrument board lamps; instrument panel, glove compartment, luggage compartment, hood compartment and door step lamps Instrument bezel assemblies Wire assemblies for foregoing	Made Uncertain* Uncertain*
589-97-49	Instrument board panels of moulded or laminated glass fibres and plastic	Uncertain*
465-75-30	Locks, electric ignition, steering gear, transmission, or combinations of such locks Electric ignition, steering gear and transmission locks Combinations of such locks	Uncertain* Made
589-97-39	Mouldings of metal, with nails or prongs set in position, lead filled or not	Not Made
589-99-89	Oil filter parts, namely: perforated filter refill oil board bodies, refill end discs, and roll-seam perforated tubes Refill end discs, and roll-seam perforated tubes Perforated filter refill oil board bodies	Uncertain* Made
589-97-39) 949-99-24)	Ornaments and identification plates of metal, unplated, not including finished or decorative mouldings	Made
589-99-89	Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor Pipe lines of tubing, rigid, covered or not, with or without fittings	Made
448-28-40) 448-28-90)	Electric weld tubing, with O.D. 3/8" or less and wall thickness .028" or less	Made*
448-29-89	Double wall copper brazed tubing, with O.D. 3/8" or less and wall thickness .028" or less	Made*
448-28-40) 448-29-40)	Other carbon steel mechanical tubing for automotive use	Uncertain*

589-99-49	Purifiers for gasoline, including brackets and fittings therefor	Made
589-92-89	Radiator shutter assemblies, automatic	Not Made
589-92-89	Radiator water gauges	Not Made
589-92-89	Radiator shells not plated nor metal finished in any degree	Made
589-99-89	Reclining seat mechanisms	Uncertain*
589-90-89	Shackles, bearing spring -for current model service -other	Made Not Made
589-99-89	Speedometers	Uncertain*
589-90-89	Spring covers of metal and closing strips or shapes therefor	Not Made
	Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles of plain or coated metal, in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree, including such stampings incorporating pierce or clinch nuts	
589-98-49	Body sides, doors, deck (trunk) lids, roof panels, floor panels, fenders, front ends except bumpers, hoods	Not Made
	Bumpers	Made
589-98-39	Cowls, instrument boards, baffles, door pillars	Made
	Shields	Uncertain*
589-91-89	Steering wheels, rims and spiders therefor -for current model service -other	Made Not Made
589-99-89	Sun visor blanks of gypsum weatherboard	Not Made
589-99-89	Swivel seat mechanisms	Not Made
589-99-89	Tachometers, with or without tachographs, both electric and gear driven	Not Made
703-28-20	Thermostatic controls	Made
	Throttle, spark, choke, and hood lock release assemblies, including buttons therefor	
589-99-89	Throttle, spark and choke assemblies for current model service	Made
	Hood lock release assemblies	Uncertain*
	Other	Not Made
589-95-89	Torque converters	Not Made
589-95-89	Auxiliary transmission overdrive units and controls therefor	Not Made
589-95-19	Universal joint ball assemblies	Made
589-99-89	Windshield and window wipers	Uncertain*
	Parts of all the foregoing, including brackets, fittings and connections therefor:	

589-99-89	Parts of pipe lines of tubing, rigid, covered or not, with or without fittings, not to include tubing therefor	Made*
589-99-89	Parts of speedometers, namely: Speedometer cables and speedometer cable and housing assemblies	Made*
703-95-20	Parts of thermostatic controls, namely: Power element cups, guides, pistons, pellets, valves, flanges, top frames, bottom frames and springs Rubber socks	Made Not Made*
589-95-89	Parts of auxiliary transmission overdrive units and controls therefor, namely: Sintered powdered metal parts	Made*
589-95-19	Parts of universal joint ball assemblies, namely: Constant velocity joints	Not Made*
589-99-79	Parts of windshield and window wipers, namely: Blades and refills for passenger cars and light trucks Other blades and refills	Made* Not Made*
589-99-69	Wiper arms	Not Made*
465-64-20	Other parts of the aforementioned goods and parts of all other goods enumerated in tariff items 43810-1, 43811-1, 43812-1, 43813-1, 43814-1, 43815-1 and 43816-1, namely: Blank keys	Uncertain*
465-75-40	Clips, moulding & wiring, motor vehicle	Uncertain*
468-79-21	Fittings, pipe, brass	Uncertain*
-	Other	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

The commodity detail presented in the above listing differs in various respects from that contained in Table 4 of Background No. 11. In the first place, certain of the commodity classes previously listed are now judged, in the light of further study, to have been inappropriately coded to the tariff items/goods under review and have, accordingly, been deleted. Thus, c.c. 504-89-40 ("torque converter, power transmission") and c.c. 720-59-34 ("sirens, fire alarm") have been removed as being outside the intended scope of the referred items, while oil filter parts, pipelines of tubing, and automatic radiator shutter assemblies - formerly classified to c.c. 589-99-59 ("filters, oil, motor vehicle nes"), c.c. 589-93-89 ("exhaust system parts nes", motor vehicle nes") and c.c. 589-92-19 ("radiator assemblies, motor vehicle nes") respectively - are now recoded to c.c. 589-99-89 ("motor vehicle parts and accessories nes") and c.c. 589-92-89 ("cooling system parts nes, motor vehicle nes"). Shields, originally listed under both c.c. 589-98-39 and 589-98-49 as "made" and "not made" respectively, are now identified, with an "uncertain" made-in-Canada designation, in relation to the former commodity class only. On the other hand, several of the products named in the nomenclature of the referred items were inadvertently omitted from Table 4, and these are now included, with appropriate statistical identifiers,

in the above commodity listing. Thus, windshield and window wipers (c.c. 589-99-89: "motor vehicle parts and accessories nes") and wire assemblies for instrument bezel assemblies etc. (c.c. 682-62-49: "lamps, bulbs/tubes, automotive, nes") are now specified in the listing, an "uncertain" made-in-Canada designation being attached thereto. At the same time, "purifiers for gasoline, including brackets and fittings therefor" are listed with a "made" identity, against c.c. 589-99-49 ("filter, fuel, motor vehicle nes"), it being understood that "purifiers for gasoline" is an antiquated term for gasoline filters, of which there are several producers in Canada.

Various other goods/commodity classes have been added to the original Table 4 listing in the light of information contained in Departmental Memorandum D11-1-1 and in response to submissions from interested parties. All parts of pipelines of tubing (not including tubing), and speedometer cables and speedometer cable and housing assemblies are ruled in the aforementioned Memorandum to be goods "of a class or kind made in Canada" and are listed accordingly (against c.c. 589-99-89). In the first-named product area a "made" appellation is also attached to small diameter tubing (c.c. 448-28-40, 448-28-90 and 448-29-89) brought to the Board's attention by Bundy of Canada Limited, Bramalea, Ont., while other carbon steel mechanical tubing (falling under c.c. 448-28-40 and 448-29-40) is given an "uncertain" made-in-Canada identity on account of insufficiently specific and/or conflicting representations by Bundy, Hayes-Dana Inc., Dofasco Inc. (with respect to production by Algoma Steel), and Volkswagen Canada Inc. Among other goods added to the original commodity listing, sintered powdered metal parts of auxiliary transmission overdrive units (c.c. 589-95-89) are recorded as "made" at the request of Bundy of Canada Limited, while rubber socks for thermostatic controls (c.c. 703-95-20) and constant velocity joints - assumed to be parts of universal joint ball assemblies (c.c. 589-95-19) - are identified as "not made" on the basis of information provided by Procan Automotive Inc. of Montreal and Volkswagen Canada Inc. respectively.

In addition to the aforementioned changes, the made-in-Canada status of various classes/sub-classes of goods has been amended in order to accommodate, to the extent possible, the sometimes conflicting facts and opinions put forward by interested parties or otherwise elicited. The largest number of such changes pertain to product categories provisionally identified in Table 4 as "made" and now proposed for "not made" status by Volkswagen Canada Inc. The classes of goods at issue include the following, to which an "uncertain" made-in-Canada designation has now been attached, pending further investigation: instrument bezel assemblies (c.c. 682-62-49); instrument board panels (c.c. 589-97-49); electric ignition, steering gear and transmission locks (c.c. 465-75-30); reclining seat mechanisms (c.c. 589-99-89); speedometers (c.c. 589-99-89); hood lock release assemblies (c.c. 589-99-89); and hinges other than concealed or semi-concealed hinges for entrance doors, helical hinges for trunk lids, continuous or piano hinges (c.c. 465-75-20).

With respect to the latter class of goods, it has been ascertained that stampings for hinges are made in Canada; but it is not presently clear whether such stampings would qualify as hinges under the referred items. An "uncertain" identity has also been attached to refill end discs and roll seam perforated tubes (being oil filter parts coded to c.c. 589-99-89), originally categorized as "made", but now subject to conflicting representations in this regard from Fram Canada Inc., Hastings Inc., and Purolator Products Ltd. of Mississauga, Ont. More positively, windshield wiper blades and refills for heavy vehicles and wiper arms, formerly designated as "made", are now recognized as "not made" in the light of information provided subsequent to the group hearing by Anco Products Ltd.

In certain instances, follow-up enquiries or the balance of evidence at hand have pointed to the rejection of claims that specific goods are either "made" or "not made", as the case may be. Thus, inquiries of Budd Canada Inc. and Hayes-Dana Inc. have revealed that these companies are not producers of composite frames and floor structures (c.c. 589-99-29), as suggested by Dofasco Inc. It may also be - as additionally reported by Dofasco - that General Motors, Oshawa, manufactures deck lids, quarter panels and hoods (being body stampings classifiable to c.c. 589-98-49) but since such products would presumably be manufactured for use, rather than commercial disposition, while no request for dutiable status has been received, they are not considered admissible for a "made" rating. Likewise, not all claims for a change in the designated status of goods from "made" to "not made" have been found acceptable. Thus, with respect to various specified component parts of thermostatic controls (c.c. 703-95-20) currently produced in Canada by Procan Automotive, Montreal, Que., and imported by Eaton Yale Ltd., Scarborough, Ont., the fact that there may be differences in design and construction materials, as between the domestic and imported components, does not seem sufficient justification for overturning the existing "made" ruling with respect to these goods, as proposed by Eaton Yale Ltd. Further, although representations have been received from Volkswagen Canada Inc. regarding the importation of the following goods under ("not made") item 43816-1, no changes have been made in the designated "made" status of axle housings (c.c. 589-95-49), steering wheels for current model use (c.c. 589-91-89), and unplated external ornaments (c.c. 589-97-39 and 949-99-24). In the case of the first of these commodity classes, the provisional listing of Canadian producers in Table 5 of Background No. 11 has been reinforced by information contained in a submission received from Hayes-Dana Inc., Drive Train Division (regarding the manufacture of differentials, including axle housings). With respect to unplated external ornaments, the existence of "not made" rulings having specific application to Volkswagen emblems and signs of anodized aluminum and sheet steel (submitted by the company) is not viewed as providing sufficient reason for over-riding the apparent interest of a considerable number of Canadian producers in the tariff treatment of goods in this

general area of manufacture. In regard to steering wheels, those for past model service remain classified as "not made": an arrangement which, if retained, might serve to accommodate Volkswagen's particular requirements in whole or in part. This company also requests that constant velocity half shafts, hood or luggage compartments and glove compartments should be regarded as "not made". However, the relevance of these goods to the tariff items under review seems questionable. In the submission of the Motor Vehicle Manufacturers' Association most of the relevant goods falling under the referred items are proposed for "not made" (duty-free) treatment. Indeed, the only products which the Association is apparently prepared to accept as "made" are oil filter parts, gasoline purifiers, radiator shells, thermostatic controls, universal joint ball assemblies, and parts of all the foregoing: a list seemingly limited to goods - although not all such goods - for which "made" rulings exist. This seems hardly a tenable position to adopt, the more so, as historically in the administration of "not made" tariff items, the onus has generally been placed upon the users to obtain "not made" rulings rather than upon the manufacturers to obtain "made" rulings, reflecting the fact that the affected goods have been subject to less preferential (duty-free) provisions elsewhere in the Customs Tariff - notably, in the case of parts and accessories for motor vehicles, under items 43807-1, 43810-1 and 43829-1.

Tariff Proposals

Tariff items 43811-1, 43812-1, 43813-1, 43814-1 and 43815-1

Inasmuch as manufacturers of passenger automobiles are able to obtain exemption from payment of duty on the named goods when for use as original equipment, either under the terms of the Autopact or through the use of duty remission orders, it is perhaps surprising that any imports should be recorded to tariff items 43811-1, 43812-1 and 43813-1 (which pertain to "articles ... for use as original equipment by a manufacturer of passenger automobiles"). Tariff items 43814-1 and 43815-1, on the other hand, provide necessary avenues of import for manufacturers of off-highway vehicles, which were excluded from the provisions of the Autopact. The Governor in Council has qualified seven firms⁽¹⁾ to import goods under these two items, although, in theory, only item 43814-1 may be used, since no Canadian producer presently manufactures in excess of 10,000 units per year, as specified in item 43815-1.

(1) The seven firms are: Canadian Foremost Ltd., Calgary, Alberta; Flyer Industries Limited, Winnipeg, Manitoba; Pierreville Fire Trucks Ltd., Pierreville, Quebec; Terra Flex Division of Bombardier Inc., Calgary, Alberta; Universal Go-Tract Limited, Pointe Claire, Quebec; Walter Motor Truck Co. of Canada Ltd., Ville d'Anjou, Montreal, Quebec; Camions Thibault, Pierreville, Quebec.

In a proposal having broad application, Dofasco Inc. of Hamilton, Ont., advocates:

- (i) an eo nomine listing of either the "made" or "not made" goods, "depending on the practicalities of individual situations";
- (ii) "inclusion of some type or 'safety net' - perhaps in the form of duty remission - to provide for possible future eventualities where dutiable goods must be imported because they are not made or available in Canada".

The Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., notes that its members do not currently make use of the above-listed provisions because of the existence of the Autopact, but as an insurance against possible changes in this agreement, it recommends the items be retained.

Tariff item 43816-1

The Motor Vehicle Manufacturers' Association, in a proposal encompassing tariff items 43806-1, 43807-1, 43816-1, 43821-1 and 43826-1, favours:

- (i) eo nomine listings as the "mainstay alternative" to made/not made in Canada criteria;
- (ii) listing any "made" goods, "all others in Group 6 tariff items, therefore, being accorded duty-free status in a single n.o.p. item";
- (iii) initially, listings based upon historic "made/not made" criteria;
- (iv) classifying parts in accordance with the classification of the associated principal goods;
- (v) provision of a mechanism to allow "a process of updating the items listed to reflect changing circumstances", without having to wait for parliamentary approval;
- (vi) a replacement item for tariff item 43816-1 which initially replicates the existing provision save for the deletion of the "class or kind not made in Canada" qualification and the exclusion of the following goods, recognized as "made":

- Oil filter parts, namely: perforated filter refill oil board bodies, refill end discs, and roll seam perforated tubes;
- Purifiers for gasoline, including brackets and fittings therefor;
- Radiator shells not plated nor metal finished in any degree;
- Thermostatic controls;
- Universal joint ball assemblies;
- Parts of all the foregoing, including brackets, fittings and connections therefor.

- (vii) The "made" goods specified in (vi) above, to be listed in new item 43817-1, with a M.F.N. rate of duty of 10.3 p.c., reducing to 8 p.c. on January 1, 1987.

Volkswagen Canada Inc., Scarborough, Ont., proposes:

- (i) introduction of a new duty-free tariff item covering certain specified parts, currently classifiable under items 43806-1 and 43816-1, when for use in the repair and maintenance of passenger cars (a companion item is also proposed with respect to parts for motor trucks);

(ii) this new item should include the following parts presently imported under tariff item 43816-1:

- Ammeters/voltmeters;
- Axle housings for front axles;
- Cigar and cigarette lighters;
- Composite frame and floor structures of metal, and parts thereof;
- Cylinder lock barrels and keys;
- External ornaments and identification plates of anodized aluminum and paint-dipped steel sheet, including emblems, name plates, letters, insignias and signs;
- Gauges: fuel and tank unit, oil, oil pressure, oil temperature, air;
- Hinges for bodies;
- Instrument bezel assemblies;
- Locks: electric ignition, steering gear, transmission;
- Rigid pipes: brake fluid, gas, fuel, oil, air, filler, feed, breather;
- Radiator water gauges and water temperature gauges;
- Reclining seat mechanisms;
- Speedometers;
- Steering wheels;
- Tachometers;
- Hood lock release assemblies;
- Torque converters;
- Constant velocity joints;
- Windshield wipers and parts other than wiper blades and wiper rubbers;
- Constant velocity half shafts;
- Glove compartments and hood or luggage compartments;
- Instrument panels and parts;
- Parts of the aforementioned.

(iii) establishment of a "blanket" dutiable item covering "parts, not otherwise provided [for], for repair and maintenance of motor vehicles in Canada" (this item to replace tariff items 43807-1, 43810-1 and 43829-1);

(iv) addition or deletion by the Department of Finance of specific parts, "to accommodate production or lack of it in Canada" (it being envisaged that "this could be achieved annually at budget time upon request from interested parties").

Fram Canada Inc., Stratford, Ont., which both assembles and resells imported automotive parts, advocates:

(i) introduction of an eo nomine "general purpose tariff item" providing for the duty-free entry of parts and materials when imported by manufacturers of automotive parts for use in their own factories;

(ii) introduction of a "basket item", carrying "a reasonable rate of duty", covering parts to be sold in the condition as imported, worded: "finished parts to be used in the repair and maintenance of motor vehicles";

(iii) this latter item should not provide for "parts of the foregoing", as "this would conflict with the eo nomine item also proposed above".

In a submission, subsequently revised and expanded, Anco Products Ltd. of Downsview, Ont., which assembles windshield wiper blades and refills from piece parts imported from the United States under tariff item 43816-1, notes:

- (i) a preference for retention of the existing tariff nomenclature with the "class or kind" provision;
- (ii) a problem in developing a detailed listing of relevant parts in that wiper blade and refill components ruled to be of a class or kind made in Canada "are identifiable only by part number and not by a general description";
- (iii) alternative tariff provisions, worded as follows:

43810-1 Windshield and window wiper blades and refills, except arms, for use in the repair of passenger cars and light duty trucks.
[M.F.N.: (1987) 8 p.c.]

43816-1 Heavy duty windshield wiper blades, arms and refills, for the repair of commercial vehicles, including arms for passenger cars and light duty trucks.
[M.F.N.: Free]

- Component parts when for use in the manufacture of windshield and wiper blades and refills.
[M.F.N.: (1987) 8 p.c.]
Subject to duty remission when not available from production in Canada.

Bundy of Canada Limited, Bramalea, Ont., asks that, irrespective of end use (as original equipment or in the aftermarket), the small diameter tubing which it manufactures should be made dutiable and described in the following terms:

Pipe lines of tubing, rigid, covered or not, with or without fittings, and having a diameter of 3/8" or less and wall thickness of .028" or less.

Eaton Yale Ltd., of Scarborough, Ont., which assembles thermostatic controls from components supplied by its U.S. parent plant, seeks:

- (i) continued protection for its finished products through a duty imposed on imported competitive thermostats;
- (ii) duty-free admission for its own imported components, held by the firm - but not by Revenue Canada - to be "of a class or kind not made in Canada";
- (iii) adoption of a classification standard whereby "products shall be deemed to be of the same class or kind only when the products being compared meet the industry standards applicable to those products";
- (iv) the greater certainty regarding product classification provided by an eo nomine approach.

Procan Automotive Inc. of Montreal, Que., asks for the retention of duty on complete thermostats and on parts for thermostats.

Hastings Inc. of Scarborough, Ont., which imports filter components under tariff item 43816-1 for assembly in Canada, suggests that "type or size" may be a more appropriate criterion than "class or kind" in identifying "made/not made" products.

Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont., in a submission directed primarily at tariff item 43877-1, expresses concern with respect to the General Preferential Tariff rate of Free applying to items 43810-1 through 43816-1, stating: "If this is retained significant damage is expected to impact on the industry".

Merit Automotive Products Ltd. of Toronto, Ont., which remanufactures water pumps, clutch assemblies and clutch plates, suggests an extension in the end-use coverage of item 43816-1 to include automobiles.

Staff Appraisal

1. The largest number of uncertainties with respect to made-in-Canada status relate to parts of the enumerated products. Those parts whose status has been determined could be added to the appropriate eo nomine listing. In the absence of further information, the remaining parts could be classified on the basis of the made-in-Canada designation of associated principal products.

2. In the case of those named goods whose made-in-Canada status has been designated as "uncertain" by virtue of conflicting representations, determinations will need to be made on the basis of the balance of evidence available following further study and investigation.

3. Although the commodity listing which has been developed differentiates in some instances between products for use as original equipment and those for sale in the aftermarket, it is suggested that this distinction should not be retained in the replacement nomenclature, thus permitting a uniform description of the goods.

4. The tariff solution envisaged in the present instance is the development of two eo nomine lists, one for "made" goods (classifiable under a new item 43810-1) and the other for "not made" products.

5. Inasmuch as all Canadian manufacturers of passenger cars are able to obtain duty-free access to imported parts as a result of the Autopact or by Order in Council, tariff items 43811-1, 43812-1 and 43813-1 appear to serve no very useful purpose, while the qualifying refinements with respect to "British Commonwealth [Canadian] content" and manufacturing output seem somewhat excessive. From the standpoint of administrative simplicity, there would seem to be merit in dispensing with such refinements by collapsing the three items into a single duty-free item having application to all pertinent "not made" goods.

6. Likewise, inasmuch as there are no Canadian manufacturers of non-Autopact vehicles with an annual output in excess of 10,000 units (the lower qualifying limit for use of tariff item 43815-1), the provisions of this item and of item 43814-1 could quite easily be combined.

7. In view of the heavy preponderance of repair parts entering under the referred items, another possibility would be to have a single replacement item limited to goods imported for repair purposes only, and to make preferential provision for "not made" original equipment goods through other mechanisms available to the Minister of Finance (e.g. by extending eligibility for entry under the 95000 series and/or by making use of remission/drawback procedures). All "not made" original equipment goods bypassed by such arrangements might be provided for in a duty-free catch-all item providing for any such goods encompassed by these and other referred items.

8. The suggestion put forward by the Motor Vehicle Manufacturers' Association and Volkswagen Canada Inc. for the periodic updating of eo nomine listings for the purpose of accommodating changing production circumstances, would leave an element of flexibility in relation to the administration of these items which, it is felt, might be difficult to justify in light of the terms of reference provided by the Minister.

TARIFF ITEMS 43819-1, 43820-1 AND 43821-1

Existing Tariff Provisions

Note: Tariff Items 43819-1, 43820-1 and 43821-1 apply to the following commodities.

Air cleaners;
 Axles, front and rear;
 Bell or clutch housings for vehicles having a gross vehicle weight rating of over 19,500 pounds;
 Brakes;
 Brake drums;
 Cast aluminum road wheels for tube type tires using rim sizes larger than twenty inches by eight inches and for tubeless type tires using rim sizes larger than twenty-two and one-half inches by eight and one-quarter inches;
 Clutches;
 Drive shafts;
 Fuel pumps;
 Hubs;
 Hydraulic or fluid couplings;
 Internal combustion engines over 348 cubic inches in displacement;
 Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases, when the main assemblies are of a class or kind not made in Canada;
 Magnetos;
 Power dividers or transfer cases;
 Rims for pneumatic tires;
 Spring shrouds, spring seats, and spring anchor plates of metal for vehicles having a gross vehicle weight rating of over 19,500 pounds;
 Steel road wheels;
 Steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over;
 Steering gears;
 Tandem axle suspensions, not to include springs;
 Transmission assemblies;
 Universal joints;
 Parts of the foregoing;

All of the foregoing when of a class or kind not made in Canada, and

43819-1 For the manufacture of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, and the chassis for same

1/1/83	Free	10.3 p.c.	27.5 p.c.	Free	8 p.c.
1/1/87		8 p.c.			

43820-1 For use as original equipment for motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, or for chassis for same, by a manufacturer of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, and during the year in which importation is sought, not less than forty per cent of the factory cost of production of such vehicles and chassis therefor, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

43821-1 For use in the repair of motor trucks, motor buses, fire fighting vehicles, ambulances, hearses and electric trackless trolley buses, or for chassis for same or for use in the manufacture of repair parts therefor, the rates of duty under this item shall be

Free	Free	27.5 p.c.	Free	Free
------	------	-----------	------	------

The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items 43819-1, 43820-1 and 43821-1.

It should be noted that for these three items the "not made in Canada" criterion applies not only to the specified products, but also to their parts. All of these items have reference to the same "not made" goods, the differences being in the end-use provisions. Because tariff items 43819-1 and 43820-1 apply to products for use as original equipment, they would be subordinate to items 95004-1 and 95006-1. Item 43821-1 applies only to "not made" goods used for repair purposes. The latter item is bound at Free, as is tariff item 43820-1. In the case of item 43819-1, which imposes no minimum qualification with respect to the British Commonwealth content of associated vehicles and chassis therefor, the bound (1987) M.F.N. rate has been set at 8 p.c.

The regulations for the administration of these items are set forth in Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-5. This explains the method of determining the proportion of costs that can be claimed as being of British Commonwealth origin, and prescribes the declaration to be made by manufacturers of goods for which parts are claimed for entry under tariff item 43820-1. The said manufacturers have the option of entering the goods under tariff item 43819-1 and claiming a refund on an annual basis. Attention is also directed to Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-27, which sets out administrative policy with respect to the tariff classification and made-in-Canada status of brake shoe assembly kits for use in the manufacture or repair of motor vehicles (tariff items 41105-1, 41106-1, 43819-1, 43821-1, 43829-1 and 44205-1).

In the absence of the three referred tariff items, or when made in Canada, those goods qualifying under its wording would fall under tariff item 43829-1, with a bound rate of 9.2 p.c.; other products would be classified elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c. The provisions of items 95004-1, 95006-1 and 43829-1 are given in the General Introductory Note, supra.

Imports

In recent years the bulk of the imports admitted under the three tariff items have been classified to item 43821-1, with the annual value of goods entering under 43819-1 far exceeding that under 43820-1:

Value of Imports 1979-82 (\$'000)

<u>Tariff Item</u>	<u>Average 1979-81</u>	<u>1982</u>
43819-1	38,195	30,591
43820-1	9,279	6,058
43821-1	180,705	143,081

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 treats the made-in-Canada status of various goods and parts of goods classifiable under tariff items 43819-1, 43820-1 and 43821-1.

(b) Commodity Classes

The following listing, based principally on the information contained in Background No. 11, Table 4, sets out the provisional made-in-Canada status of goods falling under the three aforementioned tariff items.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Air cleaners	
589-99-39 Air cleaners for use with engines having a piston displacement of up to and including 450 cubic inches	Made
Other	Uncertain*
589-90-89) Axles, front and rear	Not Made
589-95-29)	
589-95-89 Bell, or clutch housings for vehicles having a gross vehicle weight rating of over 19,500 pounds	Not Made
Brakes	
589-96-19 Air and hydraulic brakes for current model service vehicles having a capacity of up to and including two tons	Made
Heavy duty truck brakes ranging in size from 15" x 3" to 16.5" x 7"	Made*
Other, not including spring brakes	Not Made
Brake drums	
589-96-39 Brake drums for use in the repair only of motor vehicles	Not Made*
Brake drums for use in the manufacture of motor vehicles having a gross vehicle weight rating of over 21,000 pounds	Not Made
Centrifuse brake drums	Not Made*
Other	Made
589-99-89 Cast aluminum road wheels for tube type tires using rim sizes larger than twenty inches by eight inches and for tubeless type tires using rim sizes larger than twenty-two and one-half inches by eight and one-quarter inches	Not Made

	Clutches	
589-95-89	Single plated clutches of up to 13 inches in diameter	Made
	Other	Not Made
589-95-39	Drive shafts	Made
	Fuel pumps	
588-34-10)	Fuel pumps for use on automotive engines with a piston displacement of more than 302 cubic inches, not electrically operated	Not Made
588-49-10)	Other	Made
	Hubs	
589-99-89	Hubs for use in the repair only of motor vehicles	Not Made*
	Hubs for use in the manufacture of motor vehicles having a gross vehicle weight rating of over 21,000 pounds	Not Made
	Other	Made
589-95-89	Hydraulic or fluid couplings	Made
588-04-10)	Internal combustion engines over 348 cubic inches in displacement	Not Made*
588-19-90)		
	Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases	
589-95-89	Linkages and controls for use with single plated clutches of up to 13 inches in diameter	Made*
	Other	Not Made*
689-89-40	Magnetos	Not Made
589-95-89	Power dividers or transfer cases	Not Made
	Rims for pneumatic tires	
589-99-89	Rims larger than 20" x 7.5" for tube type tires, and larger than 22" x 6.75" for tubeless tires	Not Made
	Other	Made
589-90-89	Spring shrouds, spring seats, and spring anchor plates of metal for vehicles having a gross vehicle weight rating of over 19,500 pounds	Made
	Steel road wheels	
589-99-89	Wheels up to and including 24.5" in diameter	Made*
	Other	Uncertain*
589-91-89	Steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over	Made
589-91-89	Steering gears	Not Made
589-90-89	Tandem axle suspensions, not to include springs	Uncertain*
589-95-89	Transmission assemblies	Not Made
589-95-19	Universal joints	Made
	Parts of the foregoing:	
	Parts of air cleaners, namely:	
589-99-89	Parts of air cleaners (other than filter paper and galvanized screens) for use with engines having a piston displacement of up to and including 450 cubic inches	Made*
	Other	Uncertain*

589-90-89	Parts of axles, namely: Axle shafts on motor vehicles having a gross vehicle weight rating of over 21,000 pounds Other axle shafts	Not Made* Made*
589-96-29	Parts of brakes, namely: Brake cylinders	Made
589-96-89	Non-pressure housings, dust shields, straps, shoes with or without linings, camshafts, spiders, backing plates and slack adjusters; all of the foregoing for heavy duty truck brakes ranging in size from 15" x 3" to 16.5" x 7"	Made*
	Brake shoe assembly kits	Made*
589-95-89	Parts of clutches, namely: Clutch cover and plate assemblies, and clutch driven member assemblies, for single plate clutches 13" in diameter, except fan clutches Clutch facings of crude asbestos	Uncertain* Made*
589-95-89	Parts of drive shafts, namely: Constant velocity half shafts Other	Not Made* Made*
588-34-10)	Parts of internal combustion engines over 348 cubic inches in displacement, namely: Pistons for use in the manufacture or repair of motor vehicles	Not Made*
588-49-10)	Piston pins, piston pin bushings, sleeve insert bushings, cylinder sleeves, valve stem keys, valve tappets, rocker arm assemblies, rocker arms, rocker arm shafts, camshafts, push rods, timing gears, oil pumps and intermediate shafts	Not Made*
	Crankcases, cylinder heads, valve guides, valve seats, crankshafts and pulleys	Not Made*
	Timing chains	Made*
	Intake and exhaust valves, with the exception of sodium or sodium and mercury filled valves for use in internal combustion engines, other than diesel	Made*
	Lock rings, sleeve assemblies and valve springs	Made*
	Piston rings	Uncertain*
589-92-39	Water pumps	Not Made*
589-92-89	Air cooling parts, including fan clutches	Not Made*
589-99-49	Fuel filters	Made*
589-55-59	Oil filters	Made*
589-99-89	Parts of fuel and oil filters -roll seam perforated tubes (also known as "centre tubes") for oil filters -other	Uncertain* Made* Made*
689-08-10	Engine covers	Uncertain*
689-12-10	Starter-motors	Not Made*
689-16-10	Distributors	Uncertain*
689-95-29	Generating equipment	Uncertain*
689-95-29	Distributors, ignition, parts of, nes	Uncertain*
689-95-49	Starter-motors, parts of, nes	Uncertain*
689-95-59	Generators, parts of, nes	Uncertain*
689-95-89	Electrical equipment, parts of, nes	Uncertain*
589-99-89	Parts of rims for pneumatic tires, namely: Parts of rims for pneumatic tires larger than 20" x 7.5" for tube type tires, and larger than 22" x 6.75" for tubeless tires Other	Not Made* Made*

	Parts of steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over, namely:	
589-91-39	Idler arms	Made
589-91-49	Tie rod assemblies	Made
589-91-59	Tie rod ends	Made
589-91-89	Parts of steering gears	Not Made*
	Parts of tandem axle suspensions, not to include springs	
589-90-89	Stabilizer bars	Made*
	Parts of transmission assemblies, namely:	
589-95-49	Differentials, including axle housings	Made
589-95-89	Sintered powdered metal parts	Made*
	Parts of universal joints, namely:	
589-95-89	Bearing assemblies	Made*
	Other parts of the aforementioned goods and parts of all other goods enumerated in tariff items 43819-1, 43820-1 and 43821-1, namely:	
504-01-88	Bearings, parts of	Uncertain*
504-01-89	Bearings, nes	Uncertain*
-	Other	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

The information set out in the above listing departs in various respects from the commodity detail presented in Table 4 of Background No. 11. In the first place, certain of the commodity classes are now judged, in the light of further study, to be inappropriate to the tariff items presently under review, and have been deleted. Thus, c.c. 589-91-20, 589-96-59 and 689-89-50, applying to power steering pumps, disc brake caliper assemblies and voltage regulators respectively, are considered to fall more properly under other provisions of the Motor Vehicles Schedule of the Customs Tariff, while c.c. 504-44-70, 504-44-88, 504-44-90, 504-81-20, 504-99-23, 504-99-41, 504-99-42, 504-99-70 and 504-99-73 have application to various types of mechanical power transmission equipment "not forming part of or incorporated in a machine or vehicle". Among the goods named in the commodity descriptions applying to these latter classes, drive shafts are now coded only to c.c. 589-95-39 ("drive shafts, motor vehicle nes"), while universal joints and hydraulic or fluid couplings are entered against c.c. 589-95-89 ("power train parts nes, motor vehicle nes"). Further, air cleaners, erroneously subsumed under c.c. 588-34-10 and 588-49-10 in the original listing, are now recognized as belonging to c.c. 589-99-39 ("filters, air, replaceable, motor vehicle nes"), already separately identified in Table 4.

In addition to the aforementioned changes, and in the light of further inquiry, various commodity classes/product categories have been added to those originally listed in Table 4, while the made-in-Canada determinations and/or parameters of various classes/sub-classes of goods have been altered in

order to accommodate, so far as possible, the sometimes divergent array of facts and opinion submitted by interested parties, or otherwise elicited. Thus, in recognition of the differing viewpoints expressed by the Motor Vehicle Manufacturers' Association and Volkswagen Canada Inc., on the one hand, and Fram Canada Inc., on the other, the made-in-Canada status of air cleaners/filters for use with engines having a piston displacement of more than 450 cubic inches (c.c. 589-99-39) has been changed from "not made" to "uncertain". Specifications are required for those goods claimed by Fram to be domestically produced. Among other products specified in the nomenclature of the three referred items, uncertainties have also arisen in relation to some goods formerly designated as "made" and now represented by various parties to be "not made". Thus, in response to submissions from the Motor Vehicle Manufacturers' Association and Volkswagen Canada Inc. respectively, an "uncertain" designation is now attached to steel road wheels above 24.5 inches (c.c. 589-99-89) and tandem axle suspensions (c.c. 589-90-89). An error in the original listing is responsible for the transfer from the "made" to the "not made" side of the balance sheet of all linkages and controls for use with clutches (other than single plated clutches of up to 13 inches in diameter), transmission assemblies, power dividers or transfer cases (c.c. 589-95-89). In regard to internal combustion engines with a piston displacement in excess of 348 cubic inches (c.c. 588-04-10 and 588-19-90), all such goods are now categorized as "not made", production for a "captive market only" being excluded from further consideration. Respecting brakes, the manufacturing interest of Rockwell International of Canada Inc. is now recognized in the "made" listing accorded to heavy duty truck brakes in the size range 15" x 3" to 16.5" x 7" (c.c. 589-96-19). On the other hand, at the urging of Motor Wheel Corporation of Canada Ltd., centrifuse brake drums (c.c. 589-96-39) are now identified as lacking a source of domestic production. Further, in accord with perceived customs administrative practice, as expounded in a ruling furnished by Wagner Brake Company Limited, based on Departmental Memorandum D11-1-1, all brake drums and hubs for repair - as distinct from manufacturing - use are now officially rated as "not made" goods and are, accordingly, separately identified as such in the above listing.

Other revisions and additions made to Table 4 have reference to the identification and made-in-Canada status of various parts of the enumerated products. Parts of internal combustion engines are the subject of the largest number of such modifications, being addressed in various official rulings and - in some cases - in submissions relating to tariff items 43824-1, 43825-1 and 43826-1, as well as those items presently under review. On the basis of Departmental Memorandum D11-1-1, pistons, timing chains, and intake and exhaust valves are now listed under c.c. 588-34-10 and 588-49-10 (the principal commodity classes for engine parts), with made-in-Canada designations of "not made", "made" and "made" respectively. The remaining "not made" goods specified under these classes reflect the submissions of Sealed Power Corporation and Volkswagen Canada Inc. (for which, see infra), while lock

rings, sleeve assemblies and valve springs have been added on the "made" side in the light of information provided by the former company. An "uncertain" designation has been attached to "piston rings", Canadian production by Hastings Inc. of Scarborough, Ont., notwithstanding, since both Sealed Power and Volkswagen claim these goods to be "not made", at least insofar as their own particular interests are concerned. In order to accommodate these differences, the range of piston rings made in Canada needs to be more precisely defined with respect to specifications and/or end uses. In regard to the remaining goods and commodity classes pertaining to internal combustion engines, water pumps (c.c. 589-92-39), air cooling parts, including fan clutches (c.c. 589-92-89) and distributors (c.c. 689-12-10) - all previously categorized as of "uncertain" made-in-Canada status - are now regarded as "not made" on the basis of representations made with respect to these products by Sealed Power Corporation and Volkswagen Canada Inc. It is noted by Merit Automotive Products Ltd. that, with the exception of "most bearings and gaskets", all water pump parts are not made in Canada. On the other hand, Rockwell International of Canada Inc. reports making engine covers (c.c. 589-99-89), while submissions addressed to various other tariff items (notably 43816-1, 43877-1 and 97052-1) have indicated the presence in Canada of several firms producing fuel and oil filters (c.c. 589-99-49 and 589-99-59). With respect to filter parts (c.c. 589-99-89), it is represented by Fram Canada Inc. that all of these (apart from filter paper and galvanized screens, classifiable as "materials" under tariff item 43877-1) are manufactured in Canada. However, in view of the lack of success reported by Purolator Products Ltd. of Mississauga, Ont., in establishing a satisfactory domestic source of supply for roll seam perforated tubes (also known as "centre tubes") for oil filters, an "uncertain" made-in-Canada designation has been attached to these latter products. More precise information, indicating the specifications of Canadian production in this area, is required.

With respect to parts of other named goods, all components of air cleaners for use with engines having a piston displacement of up to and including 450 cubic inches (other than filter paper and galvanized screens, categorized as "materials") are listed as "made" by virtue of the submissions and/or testimonies of Fram Canada Inc., Hastings Inc., and Sheller-Globe of Canada Limited and a post-hearing communication from Dofasco Inc. referring to the domestic production of cannisters for air filters by Canadian Fram Limited of Chatham, Ont. In an unrelated product area, axle shafts for vehicles with a gross weight rating in excess of 21,000 pounds (c.c. 589-90-89) are designated as "not made", and axle shafts for lighter vehicles are listed as "made", on the basis of information contained in Departmental Memorandum D11-1-1. The same source provides the authority for the "made" rating accorded to parts of drive shafts (c.c. 589-95-89), with the exception of constant velocity half shafts (claimed by Volkswagen to be "not made").

Further, an "uncertain" made-in-Canada designation has been attached to covers and plate assemblies for single plate clutches with a diameter of less than 13 inches (c.c. 589-95-89) to mark the disagreement of Merit Automotive Products Ltd. with the official "made" ruling (contained in Memorandum D11-1-1). In the same broad product area, a "made" identity has been accorded to clutch facings of crude asbestos, noted by Merit as being produced in Canada and generally imported under tariff item 43833-1. With respect to the remaining changes in the listing of parts, brake shoe assembly kits (c.c. 589-96-89) are recorded as "made" in the light of Departmental Memorandum D10-8-27, while the other brake parts identified as "made" (in relation to heavy duty truck brakes) are listed at the instance of Rockwell International of Canada Ltd. Brake components are also mentioned in a post-hearing submission by Dofasco Inc. as being manufactured by Certified Brakes (A Leir Seigler Company) of Rexdale, Ont., and ITT Canada Ltd., Aimco Division, of Mississauga, Ont., but no parts are identified. The made-in-Canada specifications now set out with respect to parts of rims for pneumatic tires (c.c. 589-99-89) reflect those previously listed in regard to the rims themselves and, likewise, have the backing of Departmental Memorandum D11-1-1. Among other parts now identified as "made", stabilizer bars for tandem axle suspensions (c.c. 589-90-89), sintered powdered metal parts for transmission assemblies (c.c. 589-95-89) and universal joint bearing assemblies (c.c. 589-95-89) are listed in response to respective submissions from Rockwell International of Canada Inc., Bundy of Canada Limited, and (initially, with reference to tariff item 42726-1) Hayes Dana Inc., Drive Train Division. Conversely, a "not made" designation is attached to parts (unspecified) of steering gears (c.c. 589-91-89) at the instance of Volkswagen Canada Inc.

Tariff Proposals

Tariff items 43819-1 and 43820-1

As at present, only seven Canadian importers have sought to qualify for use of tariff item 43820-1. These concerns are the same as those qualified to enter goods under tariff items 43814-1 and 43815-1 (see supra). None of these firms has made a submission to the Board in the present regard.

In a proposal having broad application, Dofasco Inc. of Hamilton, Ont., advocates:

- (i) an eo nomine listing of either the "made" or "not made" goods, "depending on the practicalities of individual situations";
- (ii) "inclusion of some type of 'safety net' - perhaps in the form of duty remission - to provide for possible future eventualities where dutiable goods must be imported because they are not made or available in Canada".

Motor Wheel Corporation of Canada Limited of Toronto, Ont., (a wholly owned subsidiary of Motor Wheel Corporation of Lansing, Michigan, U.S.A.), indicates its desire "to continue to import centrifuse brake drums as a class or kind not made in Canada and classifiable under tariff items 43819-1 or 43821-1, depending on its end use".

The Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., in the only other submission directly addressing tariff items 43819-1 and 43820-1, notes that its members do not currently make use of these provisions because of the existence of the Autopact, but as an insurance against possible changes in this agreement, it recommends the items be retained.

Tariff item 43821-1

The Motor Vehicle Manufacturers' Association, in a proposal encompassing tariff items 43806-1, 43807-1, 43816-1, 43821-1 and 43826-1, favours:

- (i) eo nomine listings as the "mainstay alternative" to made/not made in Canada criteria;
- (ii) listing any "made" goods, "all others in Group 6 tariff items, therefore, being accorded duty-free status in a single n.o.p. item";
- (iii) initially, listings based upon historic "made/not made" criteria;
- (iv) classifying parts in accordance with the classification of the associated principal goods;
- (v) provision of a mechanism to allow "a process of updating the items listed to reflect changing circumstances", without having to wait for parliamentary approval;
- (vi) a replacement item for tariff item 43821-1 which initially replicates the existing provision save for the deletion of the "class or kind not made in Canada" qualification and the exclusion of the following goods, explicitly or implicitly recognized as "made":

- Air cleaners: for use with engines of less than 450 cubic inch piston displacement;
- Brakes: air and hydraulic brakes for vehicles having a capacity of up to and including two tons;
- Brake drums: for vehicles having a gross vehicle weight of 21,000 pounds and under;
- Clutches: single plated clutches up to 13 inches in diameter;
- Fuel pumps: for use in automotive engines with a piston displacement of up to and including 302 cubic inches, not electrically operated;
- Hubs: for vehicles having a gross vehicle weight of 21,000 pounds and under;
- Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases: when the main assemblies are not provided for in the duty-free item for "not made" goods;
- Rims for pneumatic tires: 20" x 7.5" and under for tube type tires, and 22.5" x 6.75" and under for tubeless tires;
- Steel road wheels: 24.5" and under in diameter;
- Universal joints;
- Parts of the foregoing.

Volkswagen Canada Inc., Scarborough, Ont., proposes:

- (i) introduction of a new duty-free tariff item covering certain specified parts, currently classifiable under items 43821-1 and 43826-1, when for use in the repair and maintenance of motor trucks (a companion item is also proposed with respect to parts for passenger cars);
- (ii) this new item should include the following truck parts presently imported under tariff item 43821-1:
 - Air cleaners, axles (front and rear), brakes, brake drums, constant velocity half shafts, hub caps and rims for pneumatic tires, steering gears, tandem axle suspensions, transmission assemblies, and parts of the aforementioned;
- (iii) establishment of a "blanket" dutiable item covering "parts, not otherwise provided [for], for repair and maintenance of motor vehicles in Canada" (this item to replace tariff items 43807-1, 43810-1 and 43829-1);
- (iv) addition or deletion by the Department of Finance of specific parts, "to accommodate production or lack of it in Canada" (it being envisaged that "this could be achieved annually at budget time upon request from interested parties").

In a submission directed at tariff items 43821-1 and 43826-1, Sealed Power Corporation of Muskegon, Michigan, U.S.A., requests:

- (i) duty-free entry for all parts supplied by the company to which "not made" rulings have been attached - viz:
 - Pistons, piston rings, piston pin bushings, sleeve insert bushings, cylinder sleeves, valve stem keys, valve tappets, rocker arm assemblies, rocker arms, rocker arm shafts, camshafts, push rods, timing gears, oil pumps, intermediate shafts, water pumps, and fan clutches;
- (ii) customs rulings to the contrary notwithstanding, the removal of duty protection from the "large areas" of piston ring specifications not made in Canada, in that piston rings "must be in precise sizes for the engine cylinders in which they are to be used" and "comprise too broad a range of production to be considered as one 'class or kind' grouping".

Wagner Brake Company Limited of Bramalea, Ont., suggests:

- (i) deleting from tariff item 43821-1 the clause "of a class or kind not made in Canada";
- (ii) listing as a replacement item, brake drums and hubs, and parts of the foregoing, for use in the repair of motor trucks, motor buses, fire fighting vehicles, ambulances, hearses and electric trackless trolley buses.

Merit Automotive Products Ltd. of Toronto, Ont., asks "that duty should be removed from all sizes of clutches and water pump cores, component parts for same, and new clutches and water pumps of all sizes going into the aftermarket, by being classified as goods of a class or kind not made in Canada".

Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont., in a submission directed primarily at tariff item 43877-1, expresses concern with respect to the General Preferential Tariff rate of Free applying to items 43819-1, 43820-1 and 43821-1, stating: "If this is retained significant damage is expected to impact on the industry".

Staff Appraisal

1. An "uncertain" made-in-Canada identity presently attaches to a substantial number of the parts of the goods encompassed by tariff items 43819-1, 43820-1 and 43821-1. In the absence of definitive information to the contrary, the goods in question will generally have to be regarded as "not made" and allowed duty-free entry.

2. In the case of piston rings, air filters and parts thereof, and roll seam perforated tubes for oil filters, existing differences of opinion might be resolved by the provision of more precise specifications respecting Canadian production.

3. The eo nomine approach could be adopted to describe the "not made" goods entering under the referred items, with the "made" goods being allowed to fall elsewhere in the Customs Tariff, primarily under tariff item 43829-1 (bound at 9.2 p.c.).

4. From the standpoint of administrative simplicity, there would seem to be merit in dispensing with duty distinctions based on "British Commonwealth [Canadian] content". This could be done by collapsing tariff items 43819-1 and 43820-1 into one item having application to all pertinent goods for use as original equipment, with rates of duty determined on a weighted average basis. Goods imported for repair purposes could be covered in a second item.

5. In view of the heavy preponderance of repair parts entering under the three referred items, another possibility would be to have a single replacement item limited to goods imported for repair purposes only, and to make preferential provision for "not made" original equipment goods through other mechanisms available to the Minister of Finance (e.g. by extending eligibility for entry under the 95000 series and/or by making use of remission/drawback procedures). All "not made" original equipment goods bypassed by such arrangements might be provided for in a duty-free catch-all item providing for any such goods encompassed by these and other referred items.

6. The suggestion put forward by the Motor Vehicle Manufacturers' Association and Volkswagen Canada Inc. for the periodic updating of eo nomine listings for the purpose of accommodating changing production circumstances, would leave an element of flexibility in relation to the administration of these items which, it is felt, might be difficult to justify in light of the terms of reference provided by the Minister.

TARIFF ITEMS 43824-1, 43825-1 AND 43826-1

Existing Tariff Provisions

Note: Tariff Items 43824-1, 43825-1 and 43826-1 apply to the following commodity.

Internal combustion engines of 348 cubic inches and under in displacement;
Parts of the foregoing;
All of the foregoing when of a class or kind not made in Canada, and

43824-1	For the manufacture of motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, and the chassis for same					
1/1/83	Free	10.3 p.c.	27.5 p.c.	Free	8 p.c.	
1/1/87		8 p.c.				
43825-1	For use as original equipment for motor trucks, motor buses, electric trackless trolley buses, fire fighting vehicles, ambulances, hearses, or for chassis for same, by a manufacturer of the goods enumerated in tariff items 41006-1, 42400-1 and 43803-1, and during the year in which importation is sought, not less than forty per cent of the factory cost of production of such vehicles and chassis therefor, not including duties and taxes, is incurred in the British Commonwealth, the rates of duty under this item shall be					
1/1/83	Free	6.5 p.c.	27.5 p.c.	Free	5.5 p.c.	
1/1/87		5.5 p.c.				
43826-1	For use in the repair of motor trucks, motor buses, fire fighting vehicles, ambulances, hearses and electric trackless trolley buses, or for chassis for same or for use in the manufacture of repair parts therefor, the rate of duty under this item shall be					
1/1/83	Free	6.5 p.c.	27.5 p.c.	Free	5.5 p.c.	
1/1/87		5.5 p.c.				

The Governor in Council may make such regulations, if any, as are deemed necessary for carrying out the provisions of items 43824-1, 43825-1 and 43826-1.

It should be noted that for these three items, the "not made in Canada" criterion applies not only to the engines, but also to their parts. All of the items have reference to the same "not made" goods, the differences being in the end-use provisions. Because tariff items 43824-1 and 43825-1 apply to engines and parts thereof for use as original equipment, they would be subordinate to items 95004-1 and 95006-1. Item 43826-1 applies only to "not made" engines and engine parts for repair purposes. The latter item carries a bound (1987) M.F.N. rate of 5.5 p.c., as does tariff item 43825-1.

In the case of item 43824-1, which imposes no minimum qualification with respect to the British Commonwealth content of associated vehicles and chassis therefor, the bound rate has been set at 8 p.c.

The regulations for the administration of these items are set forth in Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-5. This explains the method of determining the proportion of costs that can be claimed as being of British Commonwealth origin, and prescribes the declaration to be made by manufacturers of goods for which engines and parts are claimed for entry under tariff item 43825-1. The said manufacturers have the option of entering the goods under tariff item 43824-1 and claiming a refund on an annual basis.

In the absence of the three referred tariff items, or when made in Canada, those goods qualifying under its wording would fall under tariff item 43829-1, with a bound rate of 9.2 p.c.; other products would be classified elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c. The provisions of items 95004-1, 95006-1 and 43829-1 are given in the General Introductory Note, supra.

Imports

In recent years, the bulk of the imports admitted under the three tariff items have been classified to item 43826-1, with the annual value of goods entering under 43824-1 far exceeding that under 43825-1:

Value of Imports, 1979-82 (\$'000)

<u>Tariff Item</u>	<u>Average 1979-81</u>	<u>1982</u>
43824-1	776	1,251
43825-1	229	25
43826-1	6,405	4,571

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 covers the made-in-Canada status of pistons, intake and exhaust valves, and timing chains as parts of internal combustion engines.

(b) Commodity Classes

The following listing, based principally on the information contained in Background No. 11, Table 4, sets out the provisional made-in-Canada status of goods falling under the aforementioned three tariff items.

Commodity Class		Provisional Made-in-Canada Status
588-04-10)	Internal combustion engines of 348 cubic inches	
588-19-90)	and under in displacement	Not Made
Parts of the foregoing, namely:		
588-34-10)	Pistons for use in the manufacture or repair of	
588-49-10)	motor vehicles	Not Made*
	Piston pins, piston pin bushings, sleeve insert	
	bushings, cylinder sleeves, valve stem keys,	
	valve tappets, rocker arm assemblies, rocker	
	arms, rocker arm shafts, camshafts, push rods,	
	timing gears, oil pumps and intermediate	
	shafts	Not Made*
	Crankcases, cylinder heads, valve guides, valve	
	seats, crankshafts and pulleys	Not Made*
	Timing chains	Made*
	Intake and exhaust valves, with the exception of	
	sodium or sodium and mercury filled valves	
	for use in internal combustion engines, other	
	than diesel	Made*
	Lock rings, sleeve assemblies and valve springs	Made*
	Piston rings	Uncertain*
589-92-39	Water pumps	Not Made*
589-92-89	Air cooling parts, including fan clutches	Not Made*
589-99-49	Fuel filters	Made*
589-55-59	Oil filters	Made*
589-99-89	Parts of fuel and oil filters	
	-roll seam perforated tubes (also known as	
	"centre tubes") for oil filters	Uncertain*
	-other	Made*
689-08-10	Starter-motors	Uncertain*
689-12-10	Distributors	Not Made*
689-16-10	Generating equipment	Uncertain*
689-95-49	Starter-motors, parts of, nes	Uncertain*
689-95-59	Generators, parts of, nes	Uncertain*
689-95-89	Electrical equipment, parts of, nes	Uncertain*
-	Other parts for internal combustion engines	
	of 348 cubic inches and under in displace-	
	ment	Uncertain*

* Indicates a change from Table 4 and/or a class regarding which further information is required.

Compared with Table 4, the above listing contains various changes and additions made in response to submissions from interested parties and in the light of information contained in Departmental Memorandum D11-1-1. On the basis of the latter, pistons, timing chains, and intake and exhaust valves are now listed under c.c. 588-34-10 and 588-49-10 (the principal commodity classes for engine parts), with made-in-Canada designations of "not made", "made" and "made" respectively. The remaining "not made" goods specified under these classes reflect the submissions of Sealed Power Corporation and Volkswagen Canada Inc. (for which, see infra), while lock rings, sleeve assemblies and valve springs have been added on the "made" side in the light of information provided by the former company. An "uncertain" designation has been attached to "piston rings", Canadian production by Hastings Inc. of Scarborough, Ont., notwithstanding, since both Sealed Power and Volkswagen claim these goods to be "not made", at least insofar as their own particular interests are

concerned. In order to accommodate these differences, the range of piston rings made in Canada needs to be more precisely defined with respect to specifications and/or end uses.

In regard to the remaining goods and commodity classes encompassed by the three referred items, water pumps (c.c. 589-92-39), air cooling parts, including fan clutches (c.c. 589-92-89) and distributors for internal combustion engines (c.c. 689-12-10) - all previously categorized as of "uncertain" made-in-Canada status - are now regarded as "not made" on the basis of representations made with respect to these products by Sealed Power Corporation and Volkswagen Canada Inc. On the other hand, submissions addressed to various other tariff items (notably 43816-1, 43877-1 and 97052-1) have indicated the presence in Canada of several firms producing fuel and oil filters (c.c. 589-99-49 and 589-99-59). With respect to filter parts (c.c. 589-99-89), it is represented by Fram Canada Inc. of Stratford, Ont., that all of these (apart from filter paper and galvanized screens, classifiable as "materials" under tariff item 43877-1) are manufactured in Canada. However, in view of the lack of success reported by Purolator Products Ltd. of Mississauga, Ont., in establishing a satisfactory domestic source of supply for roll seam perforated tubes (also known as "centre tubes") for oil filters, an "uncertain" made-in-Canada designation has been attached to these latter products. More precise information, indicating the specifications of Canadian production in this area, is required.

Tariff Proposals

Tariff items 43824-1 and 43825-1

As at present, only seven Canadian importers have sought to qualify for use of tariff item 43825-1. These concerns are the same as those qualified to enter goods under tariff items 43814-1 and 43815-1 (see supra). None of these firms has made a submission to the Board in the present regard.

The Motor Vehicle Manufacturers' Association (MVMA), Toronto, Ont., in the only submission directly addressing tariff items 43824-1 and 43825-1, notes that its members do not currently make use of these provisions because of the existence of the Autopact, but as an insurance against possible changes in this agreement, it recommends the items be retained.

Tariff item 43826-1

The Motor Vehicle Manufacturers' Association, in a proposal encompassing tariff items 43806-1, 43807-1, 43816-1, 43821-1 and 43826-1, favours:

(i) eo nomine listings as the "mainstay alternative" to made/not made in Canada criteria;

- (ii) listing any "made" goods, "all others in Group 6 tariff items, therefore, being accorded duty-free status in a single n.o.p. item";
- (iii) initially, listings based upon historic "made/not made" criteria;
- (iv) classifying parts in accordance with the classification of the associated principal goods;
- (v) provision of a mechanism to allow "a process of updating the items listed to reflect changing circumstances", without having to wait for parliamentary approval;
- (vi) a replacement item for tariff item 43826-1 which initially replicates the existing provision save for the deletion of the "class or kind not made in Canada" qualification.

Volkswagen Canada Inc., Scarborough, Ont., proposes:

- (i) introduction of a new duty-free tariff item covering certain specified parts, currently classifiable under items 43821-1 and 43826-1, when for use in the repair and maintenance of motor trucks (a companion item is also proposed with respect to parts for passenger cars);
- (ii) this new item should include the following parts presently imported under tariff item 43826-1:

Truck engine parts for engines of 348 cubic inches and under in displacement - viz: crankcases, cylinder heads, valve guides, valve seats, crankshafts, pistons, piston rings, air cooling parts, distributors, and pulleys;

- (iii) establishment of a "blanket" dutiable item covering "parts, not otherwise provided [for], for repair and maintenance of motor vehicles in Canada" (this item to replace tariff items 43807-1, 43810-1 and 43829-1);
- (iv) addition or deletion by the Department of Finance of specific parts, "to accommodate production or lack of it in Canada" (it being envisaged that "this could be achieved annually at budget time upon request from interested parties").

In a submission directed at tariff items 43821-1 and 43826-1, Sealed Power Corporation of Muskegon, Michigan, U.S.A., requests:

- (i) duty-free entry for all parts supplied by the company to which "not made" rulings have been attached - viz:

Pistons, piston rings, piston pin bushings, sleeve insert bushings, cylinder sleeves, valve stem keys, valve tappets, rocker arm assemblies, rocker arms, rocker arm shafts, camshafts, push rods, timing gears, oil pumps, intermediate shafts, water pumps, and fan clutches;

- (ii) customs rulings to the contrary notwithstanding, the removal of duty protection from the "large areas" of piston ring specifications not made in Canada, in that piston rings "must be in precise sizes for the engine cylinders in which they are to be used" and "comprise too broad a range of production to be considered as one 'class or kind' grouping".

Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont., in a submission directed primarily at tariff item 43877-1, expresses concern with respect to the General Preferential Tariff rate of Free applying to items 43824-1, 43825-1 and 43826-1, stating: "If this is retained significant damage is expected to impact on the industry".

Staff Appraisal

1. An "uncertain" made-in-Canada identity presently attaches to a substantial number of the parts of engines encompassed by tariff items 43824-1, 43825-1 and 43826-1. In the absence of definitive information to the contrary, the goods in question will generally have to be regarded as "not made" and allowed duty-free entry.

2. In the case of piston rings and roll seam perforated tubes for oil filters, existing differences of opinion might be resolved by the provision of more precise specifications respecting Canadian production.

3. The eo nomine approach could be adopted to describe the "not made" goods entering under the referred items, with the "made" goods being allowed to fall elsewhere in the Customs Tariff, primarily under tariff item 43829-1 (bound at 9.2 p.c.).

4. From the standpoint of administrative simplicity, there would seem to be merit in dispensing with duty distinctions based on "British Commonwealth [Canadian] content". This could be done by collapsing tariff items 43824-1 and 43825-1 into one item having application to all pertinent goods for use as original equipment, with rates of duty determined on a weighted average basis. Goods imported for repair purposes could be covered in a second item.

5. In view of the heavy preponderance of repair parts entering under the three referred items, another possibility would be to have a single replacement item limited to goods imported for repair purposes only, and to make preferential provision for "not made" original equipment goods through other mechanisms available to the Minister of Finance (e.g. by extending eligibility for entry under the 95000 series and/or by making use of remission/drawback procedures). All "not made" original equipment goods bypassed by such arrangements might be provided for in a duty-free catch-all item providing for any such goods encompassed by these and other referred items.

6. The suggestion put forward by the Motor Vehicle Manufacturers' Association and Volkswagen Canada Inc. for the periodic updating of eo nomine listings for the purpose of accommodating changing production circumstances, would leave an element of flexibility in relation to the administration of these items which, it is felt, might be difficult to justify in light of the terms of reference provided by the Minister.

TARIFF ITEM 41106-1

Existing Tariff Provisions

Goods of a class or kind not made in Canada enumerated in tariff items 43806-1, 43816-1, 43821-1 and 43842-1, for use in the repair of the self-propelled trucks enumerated in tariff item 41105-1, or the manufacture of repair parts therefor, instead of for the uses set out in tariff items 43806-1, 43816-1, 43821-1 and 43842-1

Free	Free	20 p.c.	Free	Free
------	------	---------	------	------

This tariff item was introduced in April, 1977. Although goods entering under the M.F.N. Tariff are admitted free of duty, the bound rate is 8 p.c.

The coverage of this item can only be determined in terms of the other tariff items referred to in its nomenclature. The item covers the following automotive parts, and their parts, when of a class or kind not made in Canada, and when for the uses described in this item:

Goods enumerated in tariff item 43806-1 (without end use of that item)

Bearings, clutch release, with or without collar attached;
Bearings, graphite;
Bearings, steel or bronze backed, with non-ferrous metal lining, parts and materials therefor;
Bearings, steering knuckle thrust;
Bushings or sleeve bearings of bronze or powdered metal;
Bushings, graphited or oil impregnated;
Ceramic insulator spark plug cores not further manufactured than burned and glazed, printed or decorated or not, without fittings;
Collars, crankshaft thrust;
Compressors and parts thereof, air;
Commutator copper segments; commutator insulating end rings;
Tapered discs of hot-rolled steel, with or without centre hole, for disc wheels;
Diaphragms for fuel and vacuum pumps;
Distributor rotors and cam assemblies;
Door bumper shoes;
Electric wiring terminals, sockets, fittings and connectors and parts and combinations thereof, including brackets and fittings permanently attached thereto, but not to include battery terminals;
Gaskets of any material except cork or felt, composite or not, parts and materials therefor;
Ignition contact points;
Keys for shafting;
Auxiliary driving control kits, designed for attachment to motor vehicles to facilitate their operation by physically disabled persons, and parts thereof;
Laminated composition plastic timing gear blanks;
Lenses of glass for motor vehicle lamps and for light reflectors;
Lock washers;
Magnetic plugs;
Metal frames for convertible soft tops;

Permanent mould pistons for brake master cylinders;
Piston ring castings in the rough, with or without gates and fins removed;
Propeller shaft tubes of steel bonded by rubber;
Rails of lock seam section, corners, locks and catches, unplated ventilators and parts thereof, the foregoing being of metal other than aluminum, for the manufacture of window sashes for bus bodies;
Shift control, electric, for two speed rear axles;
Steel bolts, studs, plugs, rivets or nuts, capped with stainless steel, and parts thereof;
Switches, relays, circuit breakers and solenoids and combinations and parts thereof, including starter switch assemblies;
Synchronizing cones or blocking rings for transmissions;
Vacuum, hydraulic or air control assemblies and parts thereof;
Vulcanized fibre in sheets, rods, strips and tubings;
Parts of all the foregoing.

Goods enumerated in tariff item 43816-1 (without end use of that item)

Ammeters;
Arm rests and wheel housing lining of indurated fibre, pressed to shape;
Axle housings, one piece welded, machined or not, including parts welded thereto;
Carburetors;
Chassis frames and steel shapes for the manufacture therefor;
Cigar and cigarette lighters, whether in combination with a cigarette holder or not, including base;
Composite frame and floor structure of metal in the rough;
Control ventilator gear box;
Cylinder lock barrels, with or without sleeves and keys therefor;
Dash heat indicators;
Door opening weatherseal retainers;
Engine speed governor units;
External ornaments unplated, including name plates, letters and numerals, but not including finish or decorative mouldings;
Fluid couplings with or without drive plate assemblies;
Gauges, gasoline, oil or air;
Grilles not plated, polished or not before assembly, and parts thereof not plated or polished after final forming, casting or piercing, not including added finish or decorative mouldings;
Hinges, finished or not, for bodies;
Horns;
Instrument bezel assemblies; instrument board lamps; instrument panel, glove compartment, luggage compartment, hood compartment and door step lamps and wire assemblies;
Instrument board panels of moulded or laminated glass fibres and plastic;
Locks, electric ignition, steering gear, transmission, or combinations of such locks;
Mouldings of metal, with nails or prongs set in position, lead filled or not;
Oil filter parts, namely: perforated filter refill oil board bodies, refill end discs, and roll-seam perforated tubes;
Ornaments and identification plates of metal, unplated, not including finished or decorative mouldings;

Pipe lines of tubing, rigid, covered or not, with or without fittings, and tubing therefor;
Purifiers for gasoline, including brackets and fittings therefor;
Radiator shutter assemblies, automatic;
Radiator water gauges;
Radiator shells not plated nor metal finished in any degree;
Reclining seat mechanisms;
Shackles, bearing spring;
Speedometers;
Spring covers of metal and closing strips or shapes therefor;
Stampings, body, cowl, fender, front end, hood, instrument board, shields and baffles, of plain or coated metal, in the rough, trimmed or not, whether or not welded in any manner before final forming or piercing, but not metal finished in any degree, including such stampings incorporating pierce or clinch nuts;
Steering wheels, rims and spiders therefor;
Sun visor blanks of gypsum weatherboard;
Swivel seat mechanisms;
Tachometers, with or without tachographs, both electric and gear driven;
Thermostatic controls;
Throttle, spark, choke, and hood lock release assemblies, including buttons therefor;
Torque converters;
Auxiliary transmission overdrive units and controls therefor;
Universal joint ball assemblies;
Windshield and window wipers;
Parts of all the foregoing, including brackets, fittings and connections therefor.

Goods enumerated in tariff item 43821-1 (without end use of that item)

Air cleaners;
Axles, front and rear;
Bell or clutch housings for vehicles having a gross vehicle weight rating of over 19,500 pounds;
Brakes;
Brake drums;
Cast aluminum road wheels for tube type tires using rim sizes larger than twenty inches by eight inches and for tubeless type tires using rim sizes larger than twenty-two and one-half inches by eight and one-quarter inches;
Clutches;
Drive shafts;
Fuel pumps;
Hubs;
Hydraulic or fluid couplings;
Internal combustion engines over 348 cubic inches in displacement;
Linkages and controls for use with clutches, transmission assemblies, power dividers or transfer cases, when the main assemblies are of a class or kind not made in Canada;
Magnetos;
Power dividers or transfer cases;
Rims for pneumatic tires;
Spring shrouds, spring seats, and spring anchor plates of metal for vehicles having a gross vehicle weight rating of over 19,500 pounds;
Steel road wheels;

Steering drag links for vehicles having a gross vehicle weight rating of 20,000 pounds or over;
Steering gears;
Tandem axle suspensions, not to include springs;
Transmission assemblies;
Universal joints;
Parts of the foregoing.

Goods enumerated in tariff item 43842-1 (without end use of that item)

Body bottom cross members and steel shapes for the manufacture thereof;
Bumpers, front and rear, including spring steel bumper plates;
Casket tables or platforms for hearses;
Destination and route sign assemblies, illuminated or not;
Direction signals, illuminated or not;
Door and step mechanism, hand, vacuum or air operated;
Door locks and catches;
Electric switches, buzzers, bells, push buttons, fuse assemblies;
Forward drive control conversion assemblies;
Lamps of all kinds, illuminating and indicating, including sockets, flanges, terminals, glassware, lenses and gaskets therefor, assembled or not, but not to include lamp bulbs, sealed beam units, and electric head lamps;
Metal stampings and assemblies thereof, whether or not coated with oil, primer or sound deadening compound;
Rubber fenders;
Seat operating mechanisms;
Ventilators, including motor driven fan type, and grilles;
Window operating mechanisms;
Parts of all the foregoing.

It will be noted that the "not made in Canada" criterion specified in tariff item 41106-1 applies to both the listed goods and their parts.

As indicated by the wording of the referred item, all the foregoing must be for use in the repair of, or for the manufacture of repair parts for, the self-propelled trucks described in tariff item 41105-1, as follows:

Self-propelled trucks, not including machines for felling, skidding, piling, loading, bunching or processing trees or logs, which have been modified for carrying a load; parts of all the foregoing; all the foregoing for use exclusively in the operation of logging, such operation to include the removal of the log from stump to skidway, log dump, or common or other carrier

1/1/83	10 p.c.	10.9 p.c.	20 p.c.	7 p.c.	10 p.c.
1/1/87	9.2 p.c.	9.2 p.c.(a)		6 p.c.(b)	9.2 p.c.

- (a) Bound rate.
(b) Assuming adoption by Parliament of the Budget Resolutions introduced on April 19, 1983.

In the absence of tariff item 41106-1, or when ruled to be of a class or kind made in Canada, the aforementioned goods, when imported for the repair of the trucks enumerated in tariff item 41105-1 would themselves be admitted under that item, at the rates shown above. When for use in the manufacture of repair parts for such vehicles, if not clearly classifiable as parts of the self-propelled trucks, they would be classified elsewhere in the Customs Tariff, according to their own material or nature, often at bound rates of 10.2 p.c.

Attention is also drawn to the provisions of Revenue Canada, Customs and Excise, Departmental Memorandum D10-8-27, reproduced in Background No. 11, pp. 96-8 and entitled:

Administrative Policy - Tariff Classification and Made in Canada Status of Brake Shoe Assembly Kits for Use in the Manufacture or Repair of Motor Vehicles (Tariff Items 41105-1, 41106-1, 43819-1, 43821-1, 43829-1 and 44205-1).

Imports

The value of imports under tariff item 41106-1 has been comparatively low, a peak of \$588,000 being recorded in 1978. For the years 1979-81 the annual value of imports under this item averaged \$383,000. In 1982, imports totalled \$315,000.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 covers the made-in-Canada status of various goods and parts of goods classifiable under tariff item 41106-1.

(b) Commodity Classes

The following listing, based upon a modified version of information contained in Background No. 11, Table 4, sets out the provisional made-in-Canada status of goods falling under tariff item 41106-1.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Goods for use in the repair of the self-propelled trucks enumerated in tariff item 41105-1, or the manufacture of repair parts therefor, namely:	

	i) goods described under tariff item 43806-1(a)	
	ii) goods described under tariff item 43816-1(b)	
	iii) goods described under tariff item 43821-1(c)	
	iv) goods described under tariff item 43842-1, viz:	
589-09-29	Body bottom cross members and steel shapes for the manufacture thereof	Uncertain*
589-97-29	Bumpers, front and rear, including spring steel bumper plates	Uncertain*
589-99-89	Destination and route sign assemblies, illuminated or not	Uncertain*
589-99-89	Direction signals, illuminated or not	Made
	Door locks and catches	
465-75-30	Locks, motor vehicles	Uncertain*
465-75-90	Motor vehicle hardware nes	Uncertain*
589-99-89	Electric switches, buzzers, bells, push buttons, fuse assemblies	Made
589-95-89	Forward drive control conversion assemblies	Not Made
	Lamps of all kinds, illuminating and indicating, including sockets, flanges, terminals, glassware, lenses and gaskets therefor, assembled or not, but not to include lamp bulbs, sealed beam units and electric head lamps	
681-66-20	Lamps of all kinds	Made*
681-66-88	Lenses of plastic and gaskets therefor	Made*
	Sockets, flanges and terminals	Not Made*
	Glassware	Uncertain*
	Metal stampings and assemblies thereof, whether or not coated with oil, primer or sound deadening compound	
589-98-39	Stampings, body, motor vehicle nes	Uncertain*
589-98-49	Stampings, exterior body, motor vehicle nes	Uncertain*
589-98-89	Rubber fenders	Uncertain*
589-99-89	Seat operating mechanisms	Not Made
589-99-89	Ventilators, including motor driven fan type, and grilles	Not Made
589-99-89	Window operating mechanisms	Not Made
	Parts of all the foregoing:	
	Parts of bumpers, front and rear, namely:	

(a) See supra.

(b) See supra.

(c) See supra.

465-06-49)	Bumper bar bolts capped with stainless steel	Made*
465-06-59)	Other parts of the aforementioned goods and parts of all other enumerated goods	Uncertain*
-		

* Indicates a change from Table 4, and/or a class regarding which further information is required.

Only seven provisions of tariff item 43842-1 were covered by Table 4 of Background No. 11. Six are denoted above as pertaining to goods of a class or kind "made" or "not made" in Canada, as the case may be, without the qualification of an asterisk, since the Board heard no submission and received no evidence to suggest a change in status. The seventh provision covers "door and step mechanism, hand, vacuum or air operated", judged to be inappropriate to logging trucks and so excluded from the above commodity listing. The remaining provisions of item 43842-1 were not shown in Table 4, due to the fact that they had not been used during the five preceding years, or if used, the pertinent importations did not amount to more than \$10,000 in any one year. With the exception of "casket tables or platforms for hearses" (hardly equipment for self-propelled logging trucks), the goods encompassed by these provisions are now included in the commodity listing. All are designated as being of "uncertain" made-in-Canada status, except for lighting goods falling under c.c. 681-66-20 and 681-66-88, brought to the attention of the Board by Dominion Auto Accessories Limited of Toronto, Ont. Under the "parts" provision, bumper bar bolts are identified as "made" on the basis of information contained in Departmental Memorandum D11-1-1.

Tariff Proposals

The Board received a number of submissions in connection with the public hearing in relation to goods covered by tariff items 43806-1, 43816-1 and 43821-1 (see supra). Reference to item 41106-1 is made in two of these submissions - from Rockwell International of Canada Ltd., Toronto, Ont., (with particular reference to parts of brakes for heavy duty trucks and various plastic moulded products) and Bundy of Canada Limited, Bramalea, Ont., (respecting small diameter tubing and sintered powdered metal parts for transmissions). However, Rockwell's submission lacks a tariff proposal, while there is some question as to whether the goods made by Bundy are applicable to the self-propelled logging trucks of tariff item 41105-1.

Only one submission makes specific reference to tariff item 43842-1. Thus, Dominion Auto Accessories Limited proposes deletion of "lamps of all kinds ..." from item 43842-1, in order to eliminate the requirement for end-use certificates "as lamps can be imported for trailers etc.".

In a post-hearing communication, the Motor Vehicle Manufacturers' Association, in response to a direct inquiry, indicates that it "would not object if tariff items 41105-1 and 41106-1 were removed from the Customs Tariff"; however, it recognizes that "other industry sectors might be affected".

Staff Appraisal

1. Unless information is forthcoming concerning the made-in-Canada status of "uncertain" categories of goods, it will be necessary to assign such goods for duty purposes on the basis of whatever data are presently available or as otherwise indicated in the preceding appraisals of relevant tariff items.

2. With respect to parts of the named goods, those which have been identified could be added to the appropriate eo nomine listing. In the absence of further information, the remaining parts could adopt the same made-in-Canada status as the associated principal products.

3. However, in view of the fact that the Board has received no representations from users, while the value of imports is comparatively low, it might seem appropriate to delete item 41106-1 and allow the goods to fall elsewhere in the Customs Tariff, in most cases under 41105-1.

4. In the event that item 41106-1 is to be replaced, an eo nomine approach could be adopted, encompassing all the "not made" goods described in the relevant tariff items.

5. Alternatively, tariff item 41106-1 could be replaced by a new item making reference to tariff items 43806-1, 43816-1 and 43821-1, as at present - assuming that only "not made" goods would be listed thereunder - and including a list of "not made" and relevant goods from tariff item 43842-1.

6. A further possibility would be to give the off-highway logging trucks of tariff item 41105-1 the same treatment as now applied to the off-highway mining trucks of tariff item 41006-1 (both have a bound rate of 9.2 p.c.). In that case, item 41106-1 could be deleted. Under tariff items 43806-1, 43807-1, 43810-1, 43814-1, 43815-1, 43820-1 and 43825-1, the off-highway logging trucks would be extended new concessionary rates with respect to manufacturing parts, while item 43842-1 would no longer apply to the logging trucks which consist of a chassis and a body, but to truck bodies only.

Existing Tariff Provisions

Bumper face bars of bare metal, not finished in any degree after final forming, of a type not made in Canada, for use in the manufacture of motor vehicle bumpers

Free	Free	35 p.c.	Free	Free
------	------	---------	------	------

This is a temporary tariff item, originally introduced into the Customs Tariff, under authority of section 273 of the Customs Act, on August 1, 1957. It has been renewed from time to time and is currently scheduled to expire on June 30, 1984. It will be noted that the made-in-Canada criterion is "type" rather than "class or kind". The item is not itself bound under GATT, but the relevant goods would be affected by bindings applicable to their parent items.

The principal alternative to tariff item 43861-1 is its parent, item 43829-1, which has a bound rate of 9.2 p.c. However, should the bumper face bars qualify for entry under Autopact item 95002-1, 95004-1 or 95006-1, they would be admitted free of duty, regardless of their made-in-Canada status. (The provisions of items 95002-1, 95004-1, and 95006-1, as well as those of item 43829-1, are all set out in the General Introductory Note, supra). Further, when considered to be parts of front or rear bumpers (including spring steel bumper plates), for use only in the manufacture or repair of motor truck bodies, motor bus bodies, electric trackless trolley bus bodies, fire fighting vehicles, ambulances or hearses, the pertinent goods would be admissible under tariff item 43842-1, to which free entry, bound under GATT, also applies.

Imports

The average annual value of imports under tariff item 43861-1 during the years 1979-81 amounted to \$302,000, down from the \$1.0 million recorded in 1977. Imports in 1982 totalled \$304,000.

Provisional Made-in-Canada Status of Goods(a) Published Rulings

There do not appear to be any published rulings relating to the made-in-Canada status of the bumper face bars covered by this item.

(b) Commodity Classes

The following commodity class was the only one to be included in Background No. 11, Table 4.

<u>Commodity</u> <u>Class</u>	<u>Provisional</u> <u>Made-in-Canada</u> <u>Status</u>
Bumper face bars of bare metal, not finished in any degree after final forming, for use in the manufacture of motor vehicle bumpers	
469-99-30 Bars, bumper face, unfinished	Not Made

A brief submitted by Dofasco Inc. of Hamilton, Ont., names two firms thought to manufacture the goods described in the item. However, on further investigation, it appears that the companies mentioned manufacture complete motor vehicle bumpers, as opposed to "bumper face bars". It further appears, according to officials of the Department of Industry, Trade and Commerce, that the firm (not named in Dofasco's brief) for whose benefit item 43861-1 was originally inserted into the Customs Tariff has now ceased operations in Canada.

Tariff Proposals

The Motor Vehicle Manufacturers' Association (M.V.M.A.), in noting that this temporary tariff item is utilized by Canadian suppliers to motor vehicle manufacturers, recommends its retention, consideration being given to the deletion of the "type not made in Canada" qualification.

Staff Appraisal

1. In the absence of evidence to the contrary, the goods covered by item 43861-1 should be designated as not made in Canada. Thus, the item might be retained without the qualifying clause "of a type not made in Canada".

2. However, the comparatively low value of imports under the item suggests it could easily be deleted. The possible consequences of this action are set out above, in connection with the review of existing tariff provisions.

TARIFF ITEM 43877-1

Existing Tariff Provisions

Materials, of a class or kind not made in Canada, for use in the manufacture of passenger automobiles, buses, motor trucks, ambulances or hearses, or chassis therefor, and parts and accessories and parts thereof, except tires and tubes, for all the foregoing

Free Free 35 p.c. Free Free

This is a temporary tariff item, created under the authority of section 273 of the Customs Act. It has existed in its present form since December 22, 1977, when it replaced a similar item, with somewhat narrower coverage, originally introduced into the Customs Tariff on February 11, 1965. It is currently scheduled to expire on June 30, 1984. This item is not itself bound under GATT, but the goods admissible thereunder would be affected by the bindings of the tariff items which would be applicable in its absence, or to the same products when of a class or kind made in Canada.

The item is applicable to "not made" materials used in the production of the specified vehicles, and also to the vehicle parts and accessories and parts thereof. Only tires and tubes are excluded. Insofar as parts and accessories and parts thereof (other than tires and tubes), are concerned, tariff item 43877-1, unlike the Autopact items, is not limited to goods for original equipment manufacturing (OEM) purposes; it also has application to repair and replacement parts, accessories and parts thereof for the aftermarket.

Because of the broad terminology of the item, it is impossible to list all the possible alternative tariff items and their bound rates, which would vary considerably.

Imports

The importance of item 43877-1 to the automotive industry is reflected in the value of imports thereunder. The average annual value of imports during the years 1979-1981 amounted to about \$104 million. In 1982, imports were valued at the same figure.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Although there are no published rulings relating specifically to the tariff item, many of the rulings contained in Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 are relevant. This is particularly the case with rulings contained in Appendix A (Primary Iron and Steel Products) and B (Chemicals, Plastics and Drugs).

(b) Commodity Classes

The following listing, derived principally from information contained in Background No. 11, Table 4, sets out the provisional made-in-Canada status of goods relevant to the item. Changes have been based on information acquired since the original Table 4 was published.

<u>Commodity Classes</u>		<u>Provisional Made-in-Canada Status</u>
	Materials for use in the manufacture of passenger automobiles, buses, motor trucks, ambulances or hearses, or chassis therefor, and parts and accessories and parts thereof, except tires and tubes for all the foregoing	
216-20-30	Rubber, crepe sheets	Not Made
216-20-39	Rubber, sheets, strips, crude, nes	Not Made
246-37-90	Nylon fibre, nes, except monofilaments	Made
246-89-20	Polypropylene & polyethylene fibre	
	-staple fibre	Made*
	-others	Not Made*
339-49-40	Cork gasket stock	Not Made
352-55-30	Paper, filter, industrial, uncut	Not Made
352-55-90	Paper, filter, uncut, nes	Not Made
354-40-80	Paper, kraft, impregnating, for laminates	Not Made
358-49-20	Board, automotive, not coated or laminated	
	-40 point (0.04 inch) black lined cylinder board in rolls	Made
	-other	Not Made
359-99-50	Paper, battery separator, phenol-formaldehyde resin impregnated	Not Made
359-99-55	Paper base for leatherette, pyroxylin coated	Not Made
359-99-65	Board, automotive, coated or laminated	
	-70 point (0.07 inch) black lined 3 ply laminated, not coated, in sheets	Made
	-120 point (0.12 inch) pasted chipboard, in sheets	Made
	-other	Not Made
360-49-90	Batts, batting & wadding, nes	Made
366-48-89	Yarn, polypropylene, nes	Made*
366-99-85	Yarn, polyethylene	Made*
375-45-90	Polyester fabric, 95% & over, woven broad, nes	
	-double knit plush polyester body cloth	Not Made
	-other	Uncertain*
377-59-90	Pile fabric, man-made/other fibre blend, woven broad, nes	Made
377-73-49	Non-apparel fabric, polyester/cotton, woven broad nes	Made
381-09-19	Fabric, spunbonded, nes, broad, non-woven	
	-acrylic fabric, needle punched	Not Made
	-other	Uncertain*
381-49-75	Chafer fabric, tire, cotton, woven	Made
381-49-79	Chafer fabric, tire, woven, nes	Made
387-09-79	Fabric, vinyl coated, nes, automotive	Made
387-09-89	Vinyl coated fabric, man-made fibres & blends nes	Made
400-99-35	Alkali & alkaline earth metal, except calcium	Not Made
402-32-20	Chromium oxides	Not Made*
402-40-10	Iron oxides, natural or synthetic	
	-natural	Not Made
	-synthetic	Made
403-19-24	Stannous fluoride	Not Made
403-26-32	Nickel chloride	Made

404-98-19	Potassium salts of inorganic acids nes	
	-potassium phosphate	Made
	-potassium chloride	Made
	-other	Not Made
407-21-10	Butyl alcohol, normal	Made*
407-78-20	Ethyl isohexanol	Made*
407-82-10	Trimethylolethane	Not Made
407-95-90	Fatty alcohols nes, including sulphonated	
	-sodium lauryl sulphate	Made*
	-other	Not Made*
407-99-22	Butyl alcohol and isomers except normal	Made*
408-45-20	Formaldehyde	Made
408-45-21	Paraformaldehyde	Not Made
409-03-21	Butyl acrylate	Not Made
409-03-23	Ethyl acrylate	Not Made
409-03-24	2-ethylhexyl acrylate	Not Made
409-04-15	Methacrylic acid	Not Made
409-04-22	Butyl methacrylate, monomer	Not Made
409-04-24	Hydroxypropyl methacrylate	Not Made
409-04-25	Lauryl methacrylate	Not Made
409-06-60	Ethylene glycol monoethyl ether acetate	Not Made
409-06-65	Ethylene glycol monomethyl ether acetate	Not Made
409-72-10	Phthalic anhydride	Made*
409-79-22	Dibutyl phthalate	Made*
409-79-24	Diisooctyl phthalate	Made*
409-79-26	Diisodecyl phthalate	Made*
409-79-34	Butyl octyl phthalate	Made*
409-79-49	Phthalate acid esters nes	
	-610 phthalate (phthalate of mixed n-hexano/ n-octanol/n-decanol)	Made*
	-91-phthalate (phthalate of mixed nonanol/ decanol/undecanol)	Made*
	-711-P	Not Made*
	-dioctyl terephthalate	Not Made*
	-diisononyl phthalate	Not Made*
	-others	Uncertain*
409-80-41	Dibutyl maleate	Made*
409-80-57	Dioctyl adipate	
409-80-69	Polyacid esters nes	
	-Dioctyl maleate (di-2-ethylhexyl maleate)	Made*
	-Trioctyl trimellitate (tri-2-ethyl hexyl trimellitate)	Made*
	-Linear dialkyl adipate	Made*
409-80-81	Maleic anhydride	Made*
409-99-69	Oxygen function acid esters nes	Not Made
410-99-52	Tris(2,3-dibromopropyl) phosphate	Not Made
411-75-90	Nitrile function compounds nes	Not Made
411-78-59	Hydrazine organic derivatives nes	Not Made
411-99-10	Nitrogen function compounds nes	Not Made
412-78-22	Dinitrosopentamethylenetetramine	Not Made
412-79-90	Heterocyclic compounds nes, including nucleic acids	Not Made
421-59-20	Adhesive, epoxy resin base	Made
421-59-90	Adhesive, synthetic resin base, nes	Made
421-79-10	Adhesive, rubber base	Not Made*
421-99-89	Adhesive, nes	Made
422-10-90	Latex, synthetic, crude nes	Made
422-50-40	Neoprene rubber	Not Made
422-50-70	Nitrile rubber	Made
422-50-80	Ethylene-propylene rubber	Not Made
422-50-90	Synthetic rubber nes (except latex)	Not Made
422-60-90	Compounded/semiprocessed natural/synthetic rubbers nes	Not Made
423-02-10	Phenol-formaldehyde resins	Made*
423-04-10	Melamine-formaldehyde resins	Made
423-13-20	Polyester resins, thermoplastic	Made

423-15-25	Polycaprolactam	Made*
423-15-90	Polyamide resins	Made*
423-18-10	Polyurethane resins	Made*
423-23-10	Silicone resins	Not Made
423-29-55	Polypropylene glycol	Made
423-29-59	Polyether resins nes	Not Made
423-29-89	Polycondensation and polyaddition resins nes	Not Made
423-31-35	Methacrylic acid resins, including ester polymers	Made
423-31-89	Acrylic resins nes	Not Made
423-33-30	Polyethylene resin, medium density	Made
423-33-40	Polyethylene resin, high density	Made
423-35-20	ABS resin compounds	Made
423-36-25	Styrene-acrylonitrile resins	Made
423-37-25	Polystyrene resins, expandable	Made*
423-37-27	Polystyrene moulding composition	Made
423-37-90	Polystyrene resins nes	Not Made*
423-44-30	Polyvinyl chloride resin dispersion, emulsion	Made*
423-44-90	Polyvinyl chloride resins nes	Made
423-48-25	Ethylene-vinyl acetate copolymers	Made
423-49-47	Polyvinyl butyral resins	Not Made
423-49-90	Polyvinyl resins nes	Not Made
423-53-10	Polypropylene resins	Made*
423-54-90	Copolymerization resins nes	
	-EPDM	Not Made
	-other	Made
423-55-89	Polymerization resins nes	Not Made
423-58-30	Resins derived from natural resin	Made
423-58-90	Synthetic resins from natural sources nes	Not Made
423-59-90	Synthetic resin scrap & waste nes	Made
423-66-10	Cellulose acetate butyrate	Not Made
423-89-39	Cellulose esters & ethers nes	Not Made
423-89-89	Cellulose plastics nes	
	-regenerated cellulose	Made
	-other	Not Made
424-13-20	Polyester film (.01" thick or less)	Not Made
424-13-40	Polyester sheet (greater than .01" thick)	Not Made
424-33-35	Polyethylene sheet, high density (over .01" thick)	Made
424-44-20	Polyvinyl chloride film (.01" thick or less)	
	-mylar	Not Made
	-other	Made
424-44-50	Polyvinyl chloride sheet, rigid (greater than .01" thick)	Made
424-44-90	Polyvinyl chloride sheet (greater than .01" thick) nes	Made
424-46-20	Polyvinyl butyral film (.01" thick or less)	Not Made
424-46-40	Polyvinyl butyral sheet (greater than .01" thick)	Not Made
424-49-90	Polyvinyl film and sheet nes	Made
424-53-30	Polypropylene sheet (over .01" thick)	Made
424-89-29	Cellulosic sheet (over .01" thick) nes	Not Made
424-99-23	ABS film (.01" thick or less)	Made*
424-99-89	Plastic film and sheet nes	Made
425-15-90	Pipes/tubes, rigid nes, except laminated	
	-ABS pipe	Made
	-polybutylene pipe	Made
	-other	Not Made
425-31-20	Polyethylene foamed/expanded shapes & forms	Made
425-31-39	Polyurethane foamed/expanded shapes & forms nes	Made
425-31-50	Polyvinyl chloride foamed & expanded shapes & forms	Made
425-47-90	Decorative laminated plastics, paper base nes	Made*
425-49-11	Laminated plastics, copper on mylar sheet	Not Made
425-49-19	Laminated plastics, copper on plastic sheet nes	Not Made
425-49-29	Laminated plastics, metal on plastic sheet nes	Not Made
425-49-89	Laminated plastics, nes	Made
425-90-10	Tape, plastic	Made

425-99-19	Film, synthetic resin, adhesive coated, nes	Not Made
425-99-89	Plastic fabricated materials nes	Uncertain*
426-21-90	Dispersed (acetate) dyestuffs, nes	Not Made
427-13-37	Pigments, organic, yellow, except hansa	Made
427-15-22	Pigments, organic, blue, phthalocyanine	Not Made
427-15-29	Pigments, organic, blue, nes	Made
427-15-32	Pigments, organic, green, phthalocyanine	Not Made
427-18-29	Pigments, organic, maroon, nes	Made
427-18-32	Pigments, organic, red, quinacridone	Not Made
427-18-39	Pigments, organic, red, nes	
	-lithol rubine	Made
	-Red Lake C	Made
	-other	Not Made
427-32-39	Pigments, inorganic, yellow, nes	Made
427-38-37	Pigments, inorganic, red	Made
427-99-20	Masterbatches, plastics colour	Uncertain*
427-99-59	Pigments, paint, nes	Made
427-99-60	Pigment dispersions	Not Made
427-99-89	Pigments, colour lakes & toners nes	
	-PMA	Made
	-PTA	Made
	-greens	Made
	-other	Not Made
428-16-30	Paste paints	
	-silver paste	Not Made*
	-other	Uncertain*
428-29-89	Paints, nes (except aerosol or in tube)	Made
428-33-28	Paints, ceramic (except aerosol or in tube)	Not Made*
428-99-20	Stamping foils	Made
428-99-59	Paint, vehicle formulations nes	Made
428-99-89	Stains, thinners, fillers & related products nes	
	-ceramic paint thinners	Not Made*
	-silver paint thinners	Not Made*
	-other	Made*
429-11-90	Automotive chemicals nes	Made
429-22-89	Compound catalysts, nes	Not Made
429-52-20	Fluxes, welding and soldering	Made
429-52-22	Soldering compounds, except fluxes	Made
429-52-40	Electroplating solutions and additives	Made
429-62-80	Iron exchangers, except synthetic resins	
	-for detergent manufacture	Made
	-other	Not Made
429-72-40	Stabilizers, plastic compounding, formulated	Made
429-72-55	Plasticizers, plastic compounding, formulated	Made
429-72-59	Plastics compounding agents, formulated, nes	Not Made
429-72-76	Plasticizers, rubber compounding, formulated	Made
429-72-79	Rubber compounding agents, formulated, nes	Made
429-79-49	Surfactants, non-ionic, nes, industrial	Made
429-79-89	Surfactants, compounded, nes, industrial	Made
429-95-20	Caulking compounds	
	-polyurethane adhesive caulking compound	Not Made
	-other	Uncertain*
429-95-40	Sealing compounds	Made
429-98-75	Leather chemical preparations	Made*
429-99-80	Wax, synthetic	Not Made
429-99-89	Industrial chemical specialties nes	Uncertain*
441-60-20	Silicomanganese	Made
441-99-90	Ferrometallic alloys, nes	
	-ferro columbium (ferroniobium)	Made
	-other	Not Made
442-27-20	Iron powder	
	-prealloyed	Made
	-unalloyed	Made
	-premixed	
	-containing "Anchorsteel A-1000"	Not Made*
	-other	Made
	-other	Not Made

442-27-30	Steel powder	Made
444-06-29	Flat bars, carbon steel, nes, hot rolled, 3" & less in width	Made
444-09-89	Bars, carbon steel, nes, hot rolled	Made*
444-90-90	Bars, alloy steel, nes, cold drawn/cold finished	Made
445-04-89	Plates, carbon steel, nes, over 100" wide, cut lengths	Made
445-16-40	Plates, alloy tool steel	Not Made
445-16-65	Plates, hsla steel, > 60"-100" wide, cut length	Made
445-16-90	Plates, alloy steel nes	Made
445-31-20	Strips, carbon steel, hot rolled, file steel	Made
445-36-79	Strips, carbon steel, cold rolled, nes, 12" wide & less	Made
445-38-90	Sheets, carbon steel, cold rolled, nes, over 51" wide	Made
445-51-20	Sheet/strip, carbon steel, coated with tin, electrolytic	Made*
445-55-90	Sheet/strip, carbon steel, nes, coated with zinc	Made
445-59-40	Sheets, carbon steel, other than black plate, lead/tin coated	Not Made*
445-61-10	Sheet/strip, carbon steel, coated with aluminum	Not Made
445-62-20	Sheet/strip, carbon steel, copper/copper alloy coated	Not Made
445-63-40	Sheets, carbon steel, coated with zinc-rich primer	Made*
445-63-90	Sheet/strip, carbon steel, coated nes	Made
445-80-25	Sheet/strip, stainless steel, hot rolled, to 60", 17 gauge & thinner	Made
445-85-35	Strips, stainless steel 300 series, cold rolled, to 18" wide, .013" & thicker	Made
445-85-45	Strips, stainless steel other than 300 series, cold rolled, to 18", .013" & thicker	Made
445-86-30	Sheets, stainless steel other than 300 series, cold rolled, > 18-49.2125", 22 gauge & thinner	Made
445-87-15	Sheets, stainless steel 300 series, cold rolled, > 18-49.2125", 8 to 12 gauge	Made
445-87-25	Sheets, stainless steel other than 300 series, cold rolled, > 18-49.2125", 8-12 gauge	Made
445-87-45	Sheets, stainless steel other than 300 series, cold rolled, > 18-49.2125", 13-21 gauge	Made
445-92-90	Sheet/strip, silicon steel, nes	Made
445-95-79	Sheet/strip, alloy steel, nes, hot rolled	Made
445-95-89	Sheet/strip, alloy steel, nes, cold rolled	Made
445-99-21	Sheets, steel, perforated -electroformed	Not Made
	-other	Made
445-99-90	Sheet/strip, steel, fabricated nes	Made
446-50-49	Channels, alloy steel nes or stainless steel, not further fabricated	Made
448-28-40	Tubing, mechanical, carbon steel, welded, automotive, new	Made
448-28-90	Tubing, mechanical, carbon steel, welded, nes, new	Made*
448-29-40	Tubing, mechanical, carbon steel, seamless, automotive, new	Made
448-29-59	Tubing, mechanical, carbon steel, nes, new	Made
448-29-89	Mechanical tubing, carbon steel, nes, new	Made*
448-35-75	Tubes, pressure, carbon steel, welded, > 4.5" od, new	Made
448-38-90	Pipes/tubes, carbon steel, welded, 4.5" od & <, nes, new	Made
448-44-60	Pipes, standard, carbon steel, seamless, hot finish, new	Made
448-44-89	Pipes/tubes, carbon steel, seamless, hot-finish, nes, new	Made
448-49-89	Pipes/tubes, carbon steel, seamless, cold-finish, nes, new	Not Made*
448-68-40	Tubing, mechanical, stainless steel, welded, new	Made

448-68-45	Tubing, mechanical, stainless steel, seamless, new -conduit loom for wiring harness -other	Not Made Uncertain*
448-69-45	Tubing, mechanical, alloy steel except stainless steel, seamless, new	Made
448-69-79	Pipes/tubes, alloy steel, except stainless steel, welded, nes, new	Made
448-89-89	Pipes/tubes, iron or steel, nes -conduit loom for wiring harness -other	Not Made Uncertain*
449-12-30	Wire, carbon steel, flat, not coated	Made
449-12-89	Wire, carbon steel, shaped nes, not coated	Made
449-19-30	Wire, carbon steel, round, uncoated, valve spring quality	Not Made
449-19-39	Wire, carbon steel, round, uncoated, mechanical spring quality, nes	Made
449-34-90	Wire, stainless steel nes	Made
451-05-20	Aluminum powder	Made
451-24-30	Plates, aluminum/aluminum alloy, .250" to .500" thick	Made
451-24-40	Plates, aluminum/aluminum alloy, >.500" to 1" thick	Made
451-25-51	Sheets, aluminum/aluminum alloy, coiled, up to .015" thick	Made
451-25-54	Sheets, aluminum/aluminum alloy, coiled, >.015" to .025"	Made
451-27-51	Sheets, aluminum/aluminum alloy, coiled, >.025" to .051"	Made
451-27-52	Sheets, aluminum/aluminum alloy, cropped, >.025" to .051"	Made
451-29-51	Sheets, aluminum/aluminum alloy, coiled, >.051" to .125"	Made
451-29-52	Sheets, aluminum/aluminum alloy, cropped, >.051" to .125"	Made
451-31-51	Sheets, aluminum/aluminum alloy, coiled, >.125" to .249"	Made
451-31-52	Sheets, aluminum/aluminum alloy, cropped, >.125" to .249"	Made Uncertain*
451-49-90	Aluminum/aluminum alloy fabricated materials, nes	
452-12-40	Strips, copper -solder-coated -other	Not Made* Uncertain*
452-76-40	Strips, brass	Made
452-78-49	Strips, copper alloy nes	Made
452-99-75	Copper alloy flakes & powder, except bronze	Made
453-49-43	Strips, lead alloy, except antimony lead/type metal	Made
455-50-20	Silver in primary forms	Made
455-50-89	Silver alloy fabricated materials, nes	Made
459-99-40	Beryllium alloys primary forms & fabricated materials	Not Made
459-99-55	Thermometal, non-ferrous	Made
463-32-20	Wire mesh, woven/welded, metal, reinforcing	Made
463-52-89	Wire cloth, woven wire screening, metal, nes -for air, oil or fuel filters -other	Not Made Made*
469-04-90	Converted aluminum foil, nes -printed foil -lacquered foil -other	Made Made Not Made
469-74-67	Wire, coaxial radio and TV -nylon coated windshield radio antennae wire -other	Not Made Uncertain*
469-75-29	Cable, power, insulated, nes	Made
469-75-39	Insulated cable, nes, electrical	Made

469-75-51	Wire, magnet, insulated	Made
469-75-56	Wire, ignition, automatic, in bulk	Uncertain*
469-75-59	Insulated wire, nes, electrical	Made
469-75-71	Wire, electrical, automatic, plain or armoured	Made
469-99-40	Tubing, flexible metal, except electric	Made
473-60-40	Fibreglass insulation	
	-uncured fibrous glass, 560 mg/m ² , binder content 16%	Made
	-cured black fibreglass insulation products, wt. 25 kgm/m ³ , binder content 25%	Made
	-other	Not Made
473-99-89	Glass basic products nes	Uncertain*
474-69-40	Paper, asbestos	Made
495-42-20	Conduit & tubing, electrical wiring flexible metal	Uncertain*
495-42-30	Conduit, electrical wiring, electrical metallic tubing (EMT)	Uncertain*
495-42-50	Conduit & tubing, non-metallic, flexible electrical wiring	Made
495-42-60	Conduit & tubing, rigid non-metallic, electrical wiring	Made*
495-42-90	Conduit & tubing, electrical wiring nes	Uncertain*
496-52-20	Gasket stock of two or more materials	Not Made*
949-99-89	Miscellaneous end products nes	
	-paste to produce the negative plate in batteries	Not Made
	-battery expander	Not Made
	-other	Uncertain
961-59-89	Textile end products nes	
	-conduit loom for wiring harness	Not Made
	-other	Uncertain

* Indicates an alteration from Table 4 and/or a class regarding which further information is required.

The following have been changed from Table 4 in Background No. 11:

- (1) The information respecting polypropylene and polyethylene yarns has been moved from c.c. 246-89-20 (polypropylene & polyethylene fibre) to more appropriate classes.
- (2) All goods under c.c. 402-32-20 (chromium oxides) are listed as "not made" based on representation from Harrisons & Crosfield (Canada) Limited.
- (3) c.c. 407-21-10 (butyl alcohol, normal), c.c. 407-78-20 (ethyl isohexanol and c.c. 407-99-22 (butyl alcohol and isomers, except normal) added on basis of submission by BASF Canada Inc., which describes the products respectively as n-butyl alcohol, 2-ethyl hexanol and iso-butanol. The last named might be c.c. 407-99-23 (butyl alcohol mixed isomers).
- (4) c.c. 407-95-90 (fatty alcohols nes including sulphonated), changed to reflect view of Domtar Inc., but the products of interest to the company, not being separate chemically-defined compounds are probably more properly classifiable in c.c. 429-79-20 or 429-79-25 as surfactants. Similarly, Monsanto also advises of production of fatty alcohol mixtures, which it attributes to this class; if not surfactants, then the goods would be in c.c. 395-95-59 (mixtures, residues, derivatives of fats, nes). c.c. 395-95-59, 429-79-20 and 429-79-25 have not been added to Table 4, but comments on these classifications are invited.

- (5) The following c.c. have been added based on the submission of BASF Canada Inc. In certain instances, the class has been changed from that suggested by the company. With the exception of the first and last c.c.'s and products listed, the goods are described as plasticizers - as such, they are probably not in the classes shown in Table 4 or in the submission, which apply only to single chemically-defined compounds; they would more probably be in c.c. 429-72-55 or 429-72-76. The added classes are: c.c. 409-72-10 (phthalic anhydride); c.c. 409-79-22 (dibutyl phthalate) - described by company as di-n-butyl phthalate and placed in c.c. 409-79-49 (phthalic acid esters nes); c.c. 409-72-24 (diisooctyl phthalate) - described by company as di-octyl phthalate (di-2-ethylhexyl phthalate) and placed in c.c. 409-79-37 (dicapryl phthalate); c.c. 407-79-26 (diisodecyl phthalate); c.c. 409-79-34 (butyl octyl phthalate); c.c. 409-79-49 (phthalic acid esters, nes), all products as described by company - 610 phthalate and 91-phthalate were assigned to c.c. 409-79-89 (phthalic acid derivatives, nes), while no classes were shown for the "not made" products, which the firm claims should be treated as "made", for competitive reasons; c.c. 409-80-41 (dibutyl maleate); c.c. 409-80-57 (dioctyl adipate) described by the company as di-octyl adipate (di-2-ethylhexyl adipate); c.c. 409-80-69 (polyacid esters nes) - all products as described by the company who placed the first two in c.c. 409-80-89 (polyacid derivatives nes) and the other in c.c. 409-80-81 (maleic anhydride); and c.c. 409-80-81 (maleic anhydride).
- (6) c.c. 421-79-10 (adhesive, rubber base) changed from "uncertain" to "not made" on basis of submission from National Rubber Company Limited.
- (7) c.c. 423-02-10 (phenol-formaldehyde resins), changed from "uncertain" to "made" on basis of submissions from Durez Plastics & Resins, Canadian Oxy Chemicals Limited, Fort Erie, Ont., Reichold Limited, Islington, Ont., and Imperial Oil Limited, Toronto, Ont.
- (8) c.c. 423-15-25 (polycaprolactam) and c.c. 423-15-90 (polyamide resins) added on basis of information supplied by BASF Canada Inc.
- (9) c.c. 423-18-10 (polyurethane resins), all forms listed as made, based on submission from Reichold Limited.
- (10) c.c. 423-37-25 (polystyrene resins, expandable) - added on basis of submission of BASF Canada Limited.
- (11) c.c. 423-37-90 (polystyrene resins, nes), changed from "uncertain" to "not made" on basis of submission of National Rubber Company Limited.
- (12) c.c. 423-44-30 (polyvinyl chloride resin dispersion, emulsion), changed from "not made" to "made" on basis of submission from Imperial Oil Limited.
- (13) c.c. 423-53-10 (polypropylene resins), changed from "uncertain" to "made" on basis of submission from Imperial Oil Limited and Shell Canada.
- (14) c.c. 424-99-23 (ABS film - .01" thick or less), changed from "not made" to "made" on basis of submission from Monsanto Canada Inc.
- (15) c.c. 425-47-90 (decorative laminated plastics paper base, nes), changed from "not made" to "made" on basis of submission from Reichold Limited.

- (16) c.c. 428-16-30 (paste paints) and 428-33-25 (paints, ceramic, except aerosol or in tubes) have been added, and c.c. 428-99-89 (stains, thinners, filters & related products nes) divided, to accommodate products mentioned by Duplate Canada.
- (17) c.c. 429-98-75 (leather chemical preparations), added on basis of submission from BASF Canada Inc.
- (18) c.c. 442-27-20 (iron powder) - reference to premixes containing "anchor-steel A-1000" added on basis of submission from Bundy of Canada Limited. The name "anchorsteel A-100", believed to be a trade-mark, as such is unsuitable for use for Customs purposes.
- (19) c.c. 444-09-89 (bars, carbon steel, nes, hot rolled) and c.c. 445-51-25 (sheet/strip, carbon steel, coated with tin, electrolytic) changed from "uncertain" to "made"; c.c. 445-59-40 (sheets, carbon steel, other than black plate, lead/tin coated), changed from "made" to "not made"; and c.c. 445-63-40 (sheets, carbon steel, coated with zinc - rich primer) and c.c. 448-28-90 (tubing, mechanical, carbon steel, welded, new, nes) changed from "uncertain" to "made" on basis of representations from Dofasco Inc. The company indicated plans to manufacture a product similar to that described in c.c. 445-61-10 (sheet/strip, carbon steel, coated with aluminum); the new product will be coated with zinc and aluminum.
- (20) c.c. 448-28-90 (tubing, mechanical, carbon steel, welded, new, nes), changed from "uncertain" to "made" as in (17) - and c.c. 448-29-59 (mechanical tubing, carbon steel, nes, new), added as "made" on basis of submission from Bundy of Canada Ltd.
- (21) c.c. 448-48-89 (pipes/tubes, carbon steel, seamless cold-finish, nes, new) changed from "made" to "not made" on basis of FAG Bearings Limited submission that material has not been produced in Canada since 1979.
- (22) c.c. 452-12-40 (strips, copper) - added on basis of submission by Duplate Canada.
- (23) c.c. 463-52-89 (wire cloth, woven wire screening, metal nes) modified to meet views of Fram Canada Inc. and Hastings Inc.
- (24) c.c. 469-74-67 (wire, co-axial, radio & TV), added to meet submission of Duplate Canada.
- (25) c.c. 495-42-50 (conduit and tubing, non-metallic, flexible, electric mining), changed from "not made" to "made" and c.c. 495-42-60 (conduit & tubing, rigid non-metallic, electrical wiring) changed from "uncertain" to "made" on basis of submission from Imperial Oil Limited.
- (26) c.c. 496-52-20 (gasket stock of two or more materials) added on basis of submission from Hayes-Dana Inc., Victor Products.

Although not reflected in the above table, National Rubber Company Limited suggests that in the case of the following classes shown as "made", the goods produced in Canada do not meet the specifications required for the company's products:

421-59-20	Adhesive, epoxy resin base
421-59-90	Adhesive, synthetic resin base, nes
421-99-89	Adhesive, nes
423-48-25	Ethylene-vinyl acetate copolymers
429-11-90	Automotive chemicals nes
429-72-40	Stabilizers, plastic compounding formulated
429-72-55	Plasticizers, plastic compounding formulated
429-72-76	Plasticizers, rubber compounding formulated
429-72-79	Rubber compounding agents, formulated, nes

Monsanto also refers to imports of alkyl benzyl phthalate, said to be in c.c. 409-79-49 - phthalic acid esters nes. As, however, the product is classified under tariff item 93819-1, it is not a separate chemically-defined compound and c.c. 427-72-59 would appear to be more appropriate.

Comments are invited on the problems posed by the descriptions and made-in-Canada determinations of the goods cited in these paragraphs.

Tariff Proposals

The Motor Vehicle Manufacturers' Association (MVMA):

- (i) points out that item 43877-1 is complementary to the Autopact-inspired 95000 series and the rationalization of the Canadian automotive industry brought about thereby;
- (ii) claims that the "Canadian value added" provisions of the Autopact are powerful incentives to source materials in Canada when possible;
- (iii) believes that the "class or kind" criteria applied to materials are often too broad to differentiate between important aspects, characteristics, attributes or specification of individual goods;
- (iv) feels that the item provides significant benefit not only to MVMA members, but also to their suppliers;
- (v) recommends against an eo nomine listing of the goods encompassed by the item on account of the sheer size of the task;
- (vi) points out that 85-90 per cent of any duties payable under this item are recoverable as export drawback;
- (vii) proposes that the item be retained without the "of a class or kind not made in Canada" qualification, thus permitting the duty-free entry of all materials used in the production of vehicles and their parts.

The Canadian Textiles Institute:

- (i) notes that while the "not made" qualification of the present item has "some value" to certain producers of textile materials for automotive use, it can cause difficulties for users without benefit to Canadian manufacturers when, due to the need for exact specifications, a material ruled to be of a class or kind made in Canada is not available from domestic sources;
- (ii) indicates that in view of the provision for the free entry of OEM parts under the Autopact, and the availability of export drawback in respect of the greater proportion of duties payable on imported materials, it would not object to the removal of the "class or kind" proviso from item 43877-1 inasfar as textile products are concerned;

(iii) does not make any request for textile materials to be excepted from any general provision for the free entry of materials for the specified end uses;
(iv) asks that, in the event of free entry being extended to textile materials "of a class or kind made in Canada": (a) there should be "vigorous auditing" of the use of tariff item 43877-1 to ensure compliance with its end-use requirement, (b) such a provision should continue to be on a temporary basis, "so that remedial action can be taken if there are unforeseen harmful results", and (c) "credit should be sought" from countries benefitting from this extension of the free-entry provision.

Duplate Canada Inc., Oshawa, Ont., which is engaged in the production of automotive safety glass parts using a variety of materials not available from Canadian sources:

- (i) notes the importance of tariff item 43877-1 in assisting Canadian parts producers to maintain a competitive position;
- (ii) requests retention of free entry for products now imported under this item;
- (iii) feels that the lack of permanence of a temporary tariff item "would seriously inhibit forward planning of capital expenditures and marketing effort";
- (iv) indicates present needs could be met by a provision worded:

Copper strip, solder-coated, one side; ceramic paint; ceramic paint thinner; silver paste; silver paste thinner; nylon-coated windshield radio antennae wire; polyvinyl butyral sheeting, when used in the manufacture of windshields, side windows and back windows for motor vehicles - Free [BP and MFN];

- (iv) however, expresses preference for a less specific provision to allow for technological change - viz:

Materials used in the manufacture of windshields, side windows and back windows for motor vehicles - Free [BP and MFN];

- (v) considers that a qualification based on "type or size" would be preferable to one relating to "class or kind", as being less broad in application.

FAG Bearings Limited, Stratford, Ont., which imports seamless cold-finished carbon steel pipes and tubes for the manufacture of automotive parts and bearings:

- (i) points out that, even though 43877-1 is a temporary item, it has been in effect since 1965;
- (ii) states that its elimination would cause "significant harm" to Canadian manufacturers who rely upon imported materials;
- (iii) contends that the variety of pipes/tubes to be named in an eo nomine item "could be overwhelming";
- (iv) suggests retention of the tariff item with the substitution of "type or size" for "class or kind".

Representations with respect to filter media currently imported under tariff item 43877-1 have been received from five manufacturers of air, fuel and oil filters - viz: Fram Canada Inc., Stratford, Ont.; Hastings Inc., Scarborough, Ont.; Purolator Products Limited, Mississauga, Ont.; Sheller-Globe of Canada Limited, Kralinator Filter Division, Cambridge, Ont.; and Wix Inc., Pickering, Ont.

In summary:

- (i) all request continued provision for the duty-free entry of the following goods required in specifications not available from Canadian production - (a) specially treated filter paper (mentioned by all five companies), and (b) galvanized screens (cited by Fram and Hastings);
- (ii) all stress the critical importance, in the overall cost context, of duty-free access to the aforementioned materials;
- (iii) while indicating a preference for retention of the existing item, Purolator proposes, as an alternative, the creation of a simple tariff provision applying to "filter paper for use in the production of oil, air or fuel filters";
- (iv) Hastings and Sheller Globe suggest substituting the words "type or size" for "class or kind".

Hayes Dana Inc., Victor Products Division, St. Thomas, Ont., a manufacturer of gaskets, seeks continued free entry for gasket materials currently entering under the item.

Bundy of Canada Limited, Bramalea, Ont., which manufactures small diameter tubing:

- (i) wants protection on pipe lines of tubing, rigid or not, having a diameter of 3/8" or less and wall thickness less than .028";
- (ii) seeks retention of free entry under item 43877-1 for (a) carbon steel sheet or strip, copper or copper alloy coated, and (b) a premixed iron powder containing a constituent known as anchorsteel A-1000 [a trade name - some other description would be necessary for tariff purposes].

Canadian A.S.E. Limited, Downsview, Ont., a manufacturer of safety and seat back latch devices:

- (i) advises that it has been importing free under temporary item 43855-1 (not in the reference), hot and cold rolled steel sheet and strip, grade 4130, produced for fine blanking, spherodized, annealed and rolled up to .246 gauge to a tolerance of .008 or better;
- (ii) claims that steel conforming to these specifications is not available from Canadian manufacturers;
- (iii) submits evidence that the termination of item 43855-1 is being sought by certain Canadian steel producers;

(iv) seeks continued free entry for aforementioned goods, which could otherwise fall into tariff item 43877-1.

[Note: Item 43855-1 has been extended to June 30, 1984, limited to the grade 4150 steel cited by this importer].

In a proposal having broad application, Dofasco Inc. of Hamilton, Ont.:

- (i) indicates a preference for an eo nomine listing of either the "made" or "not made" goods, "depending on the practicalities of individual situations";
- (ii) suggests "the inclusion of some type of 'safety net' - perhaps in the form of duty remission - to provide for possible future eventualities where dutiable goods must be imported because they are not made or available in Canada".

A number of proposals were limited to goods otherwise classifiable under Group XII of the Customs Tariff - Products of the Chemical, Plastics and Allied Industries:

Uniroyal Chemical, Division of Uniroyal Ltd., Elmira, Ont.:

- (i) indicates its concern with item 43877-1 both as a manufacturer of organic chemicals for the rubber and plastic industries and as an importer of other products for the same industries;
- (ii) notes the difficulty which an eo nomine approach would encounter on account of the large number of materials involved;
- (iii) opposes elimination of the "not made in Canada" proviso as being potentially harmful to the company;
- (iv) advocates retention of the item in its existing form.

The Canadian Chemical Producers' Association (CCPA):

- (i) notes that item 43877-1 covers many products otherwise classifiable in Group XII of the Customs Tariff;
- (ii) observes that the item is not bound under GATT;
- (iii) argues that removal of all such products to Group XII (which is already based closely on the Brussels Tariff Nomenclature) would facilitate the transition to the new Harmonized System of the Customs Cooperation Council Nomenclature;
- (iv) more specifically, recommends the following, with respect to goods otherwise classifiable in Group XII:

1. Products classified in Chapters 928 and 929
 - (a) Extend the application of Section 12 of the Customs Tariff to products falling in Chapters 928 and 929 by the addition of a section in the Chemical and Plastics Tariff Reduction Order parallel to Section 8 (the plastics end use section) i.e.
"During the period commencing on ... and ending on ..., the goods classified in Chapters 928 and 929 of Group XII of Schedule A to the Customs Tariff that could have been admitted free of duty by virtue of Sections 3, 4, 5, 6 or 7 if those goods had been entered under the British Preferential Tariff, shall be admitted free of duty when

(a) entitled to admission under the Most-Favoured Nation Tariff; and

(b) for use only in the manufacture of passenger automobiles, buses, motor trucks, ambulances, or hearses, or chassis therefor and parts and accessories and parts thereof, except tires and tubes, for all of the foregoing".

(b) Apply Section 11 of the Chemicals and Plastics Tariff Reduction Order on a selected basis to individual products where necessary.

2. Products classified in Chapters 915 and 939

(a) Apply Section 11 of the Chemicals and Plastics Tariff Reduction Order on a selected basis to individual products.

(b) Apply Section 273 of the Customs Act to individual products for specified end uses.

3. Products classified elsewhere than 915, 928, 929 and 939

Apply Section 273 of the Customs Act to individual products for specified end uses.

(v) recognizes that "there is a great deal of detailed work required before a definitive recommendation can be made by the Board to the Minister";

(vi) indicates the Association's willingness to assist the Board and its staff in any way it can to facilitate this work.

The CCPA proposal is supported by Imperial Oil Ltd. of Toronto, Ont., Dupont Canada Inc. of Streetsville, Ont., and, insofar as the products of Chapter 939 are concerned, by Borg-Warner Chemicals of Cobourg, Ont.

The Canadian Paint and Coatings Association, on behalf of its members, who import a wide range of resins, pigments and solvents in the production of paints and coatings for the automotive industry:

(i) notes the complexity of pigment use - e.g. there are 370 organic red and 280 organic yellow pigments available and not all are substitutable;

(ii) advocates retention of item 43877-1 "as is" until "a method is found that can keep its present advantage and at the same time satisfy the Minister's request" [for specific product descriptions];

(iii) indicates that a better solution may be achieved by further defining and refining the "availability" criterion.

National Rubber Company, Division of the Allen Group Canada Ltd., Toronto, Ont., which manufactures rubber automotive parts:

(i) refers to instances where the characteristics of Canadian-made materials for use in the manufacture of rubber goods do not enable the users to meet OEM specifications;

(ii) seeks freedom to import under item 47877-1, perhaps under an "availability" concept, materials "of a class or kind made", when Canadian products do not meet desired specifications;

(iii) finds the proposals of the Canadian Chemical Producers' Association (see supra) acceptable.

W.R. Grace & Co. of Canada Ltd., Lasalle, Que., manufacturers of battery separators:

- (i) requests continued duty-free access to phenol-formaldehyde resin impregnated battery separator paper, imported under item 43877-1;
- (ii) suggests a new item, or pair of items:

Paper, battery separator, phenol-formaldehyde resin impregnated

- a) Not made in Canada - M.F.N. Free
- b) Made in Canada - M.F.N. 10.2 p.c. (1987)

Canadian Fram Limited, Chatham, Ont., an original equipment automotive parts manufacturer specializing in automotive air cleaner assemblies, engine fan cooling products and engine emission control devices, on behalf of its suppliers (unnamed) of plastic parts:

- (i) points out that in order to meet specifications, its suppliers must import materials, often proprietary products, not available from Canadian production;
- (ii) urges that, for competitive reasons, these materials (unspecified) should continue to be duty free until approved equivalent materials become available from Canadian suppliers.

BASF Canada Limited, Montreal, Que., which, as a wholly-owned subsidiary of BASF Aktiengesellschaft of West Germany, is engaged in the manufacture and distribution of various chemicals, dyestuffs and plastics:

- (i) urges that tariff protection be maintained in relation to a submitted list of products made by the company or its associate, Badische Canada Ltd., Arnprior, Ont., which are or can be used in the production of automotive vehicles;
- (ii) claims that there are a large number of products which, although not manufactured in Canada, compete directly with the firm's range of plasticizer products;
- (iii) in order "to cover the competing chemicals", proposes that the following be included in the "Made in Canada" listing:

- a) end-use: vinyl plasticizers" or plasticizers for PVC.
- b) composition: phthalates, terephthalates, adipates, maleates, trimellitates or azelates of aliphatic alcohols or mixtures of alcohols containing a carbon chain between 4 and 13 inclusive.

Monsanto Canada Inc., Mississauga, Ont., in initial and supplementary submissions:

- (i) requests that provision be made for the continued duty-free entry on a temporary basis of C-7, C-9 and C-7, C-9, C-11 alcohol mixtures, and alkyl benzyl phthalate (Santicizer 261);
- (ii) points out that polyvinyl butyral sheeting, a product of its U.S. parent company, is also admissible duty free under tariff item 93902-81.

Procan Automotive Inc., St. Laurent, Que., seeks continued free entry for a petrochemical wax used in the manufacture of thermostats, now imported under tariff item 43877-1.

Harrisons & Crosfield (Canada) Ltd., Toronto, Ont., requests the removal of the current duty on chromium oxide, which it no longer produces in Canada.

Borg-Warner Chemical, Borg-Warner Canada Limited, Cobourg, Ont.:

- (i) supports, insofar as the products of Chapter 939 are concerned, the CCPA proposal;
- (ii) indicates that there are (unnamed) products listed as "not made", for which the company's products might be acceptable substitutes;
- (iii) requests that no action be taken that would preclude the company from contesting such classifications.

Staff Appraisal

1. The extensive use made of tariff item 43877-1, the wide-ranging varieties of materials admitted thereunder, and the importance of the item in relationship to the terms of the Autopact, are all significant factors in determining possible courses of action with respect to this item.

2. The virtual impossibility of preparing eo nomine listings, either of "made" or of "not made" goods, is apparent. However, this would not preclude the enactment of some very specific eo nomine items, as suggested in one or two cases.

3. Insofar as materials are intended for use in the manufacture of vehicles themselves, or in the production of OEM parts and accessories or of parts thereof, the Canadian "value added" requirements of the Autopact might well induce users to buy Canadian wherever possible, regardless of any tariff inducement; for such production, the item might be retained without any "not made" qualification.

4. Indications are that the item has tended to be administered fairly narrowly, with goods excluded only if they are virtually identical to Canadian products. This suggests the possibility of the use of an "availability" concept, narrowly administered, particularly with respect to parts or accessories and parts thereof for the aftermarket. Even if this item were to be retained, the word "kind" or the words "types or kinds" might be substituted for "class or kind".

5. Proposals for any continuing arrangements to be on a temporary basis also have merit, given the changes in materials from time to time.

6. In the context of the proposed adoption of the Customs Cooperation Council Nomenclature, the CCPA proposal to remove the products of Group XII from the item is worthy of consideration. This would be particularly easy insofar as goods covered by tariff items under Section 12 of the Customs Tariff are concerned. For other products, the use of Section 273 would require considerable preparation and care in definition.

7. Given that item 43877-1 is not bound, and that it is designed to provide relief to Canadian users without harm to Canadian manufacturers, and thus to provide ease of access to foreign products, much can be said for simply perpetuating the item in its present form.

8. The fact that a high proportion of the duties payable under tariff item 43877-1 are recoverable as export drawback, lends some support to the case for retaining the item or, indeed, by dropping the "class or kind" qualification, for throwing it open to "made" - as well as "not made" - materials. In the event of adoption of the latter possibility, certain broad categories of goods (e.g. iron and steel manufactures) which are heavily weighted with "made" classes might be excluded from the replacement provision.

TARIFF ITEM 44560-1

Existing Tariff Provisions

Lamp bases of metal, of a class or kind not made in Canada,
for use in the manufacture of incandescent electric lamps
for motor vehicles

Free Free 30 p.c. Free Free

This is a temporary tariff item, originally introduced into the Customs Tariff on February 1, 1964, under authority of section 273 of the Customs Act, and currently scheduled to expire on June 30, 1984. The item is not itself bound under GATT, but the goods to which it applies would be affected by bindings applicable to the tariff item or items to which the goods would revert if ruled "made" or if this item should be allowed to expire.

The principal alternative item is tariff item 44524-1. This is worded:

Electric apparatus and complete parts thereof, n.o.p.:

44524-1 Other than the following

1/1/83	13.9 p.c.	13.9 p.c.	30 p.c.	9 p.c.	13.9 p.c.
1/1/87	10.2 p.c.	10.2 p.c.(a)	30 p.c.	6.5 p.c.(b)	10.2 p.c.

(a) Bound rate.

(b) Assuming adoption by Parliament of the Budget Resolutions introduced on April 19, 1983.

Another possible alternative is tariff item 43829-1, which has a bound rate of 9.2 p.c. However, should the lamp bases be imported under the appropriate circumstances, they could qualify for free entry under Autopact tariff items 95002-1, 95004-1 and 95006-1. (The provisions of tariff items 93829-1, 95002-1, 95004-1 and 95006-1 are all set out in the General Introductory Note, supra).

Imports

The annual value of imports under tariff item 44560-1 averaged \$1.1 million in 1978-81, having risen from \$544,000 in 1976. In 1982, imports totalled \$1.2 million.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

There do not appear to be any published rulings relating to the made-in-Canada status of the lamp bases covered by this item.

(b) Commodity Classes

The following commodity class was the only one to be included in Background No. 11, Table 4.

<u>Commodity Class</u>	<u>Provisional Made-in-Canada Status</u>
Lamp bases of metal for use in the manufacture of incandescent electric lamps for motor vehicles	
682-90-40 Bases, electric lamp/bulb parts -lamp bases of metal for use in the manufacture of incandescent electric lamps for motor vehicles	Not Made

In a submission directed to a different tariff item, Dominion Auto Accessories Limited of Toronto, Ont., indicates that it produces "lamps of all kinds". However, no mention is made of tariff item 44560-1.

Tariff Proposals

The Motor Vehicle Manufacturers' Association (M.V.M.A.), in noting that this temporary tariff item is utilized by Canadian suppliers to motor vehicle manufacturers, recommends its retention, consideration being given to the deletion of the "class or kind not made in Canada" qualification.

Staff Appraisal

1. In the absence of evidence to the contrary, the goods covered by item 44560-1 should be designated as not made in Canada. Thus, the item might be retained without the qualifying clause "of a class or kind not made in Canada".

TARIFF ITEM 97052-1

Existing Tariff Provisions

This drawback item relates to goods used in the production of motor vehicles, motor vehicle accessories and motor vehicle parts; accessories and parts for both original equipment and repair and replacement purposes are included. The item is as follows:

<u>Goods</u>	<u>When Subject to Drawback</u>
Machines, precision instruments, apparatus, and control panels therefor; all of the foregoing of a class or kind not made in Canada; accessories and attachments for use with the aforementioned machines, precision instruments and apparatus; parts of all the foregoing, not including consumable tools.	<p>When used</p> <p>(a) in the plants of manufacturers of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof for the manufacture of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof; or</p> <p>(b) for the manufacture of:</p> <p>(i) dies, jigs, fixtures, moulds, and patterns therefor;</p> <p>(ii) cutting tools and parts thereof, for use with machines;</p> <p>all of the foregoing for use in the production of motor vehicles, motor vehicle parts, or motor vehicle accessories and parts thereof</p>

Portion of duty payable as drawback: 100 p.c.

As with all drawback items, there are four components of this item:

1. The item number;
2. The enumeration of goods on which drawback may be granted;
3. The circumstances under which the goods are subject to drawback; and
4. The rate of drawback.

In this particular item, components 1 and 4 are straightforward.

Component 2 provides that drawback may be paid on:

- (a) (i) machinery, (ii) precision instruments, and (iii) apparatus - all the foregoing, of a class or kind not made in Canada;
- (b) control panels, of a class or kind not made in Canada, for use with the goods in (a);
- (c) accessories and attachments, regardless of their own made-in-Canada status, for use with the goods in (a); and
- (d) parts of the goods in (a), (b), and (c), regardless of their own made-in-Canada status, but not including consumable tools.

Strictly speaking, in this reference, the Board's concern is only to find suitable replacement descriptions for (a) and (b), eliminating the "not made in Canada" provision.

Component 3 requires that the goods be used either:

- (a) for the in-plant manufacture of motor vehicles, motor vehicle parts or motor vehicle accessories and parts thereof; or
- (b) without restriction as to location, for the manufacture of dies, jigs, fixtures, moulds and patterns therefor, or cutting tools and parts thereof, for use with machines, when the foregoing dies, etc., are to be used in the production of motor vehicles, motor vehicle parts or motor vehicle accessories and parts thereof.

Unlike the other items in this group, which all relate to automotive parts, this drawback item provides relief on certain goods used in the production of motor vehicles, parts and accessories. Although not incorporated into the Autopact, the provisions of the item are considered by the industry in Canada, to be complementary to that agreement and to be designed to assist Canadian producers in competing in what is essentially a free trade market, at the manufacturing level, in new vehicles and original equipment parts.

Figures made available to the Board indicated that in the three fiscal years 1978-79 to 1980-81, an annual average amount of \$11.3 million was paid as drawback of duties under this item. In 1981-82, the total rose to just fractionally under \$21 million, and in 1982-83, some \$10.3 was paid. Given that many of the goods on which drawback was paid probably carried rates of duty of between 10 and 15 per cent ad valorem, this would suggest that in 1981-82, the peak year, drawback was granted on goods valued at time of importation at approximately \$160 million. It is also noteworthy that in each of the last five fiscal years more than 70 per cent of the total amount of drawback paid out in respect of all items in Schedule "B" to the Customs Tariff, was paid under this one item.

Alternative Mechanisms For
Duty Remission/Duty Drawback

Imports of machinery and equipment for use in the automotive industry may be eligible for duty relief under various mechanisms, namely:

- i) remission of duty under the provisions of the Machinery Program;
- ii) remission of duty under P.C. 1973-1744; and
- iii) duty drawback under Tariff Item 97052-1.

NOTE: Whereas the provisions of P.C. 1973-1744 apply only to machinery and equipment for use by original equipment manufacturers, tariff item 97052-1 and the Machinery Program items contain no such limitation.

Although this was disputed at the public hearing, it is the Board's understanding that parties seeking relief should do so first under the Machinery Program, and then under P.C. 1973-1744, before turning to the drawback item.

Machinery Program

Automotive machinery and equipment classified under relevant machinery tariff items (42700-1 et al) may be granted remission of duty under the provisions of the Machinery Program.

P.C. 1973-1744

The provisions of P.C. 1973-1744 (see below), authorize the Machinery and Equipment Advisory Board (MEAB) to consider applications for remission of duty for automotive machinery and equipment which are not dutiable under Machinery Program tariff items.

In addition, this Order enables the MEAB to consider applications for remission of duty for automotive machinery and equipment which are dutiable under Machinery Program tariff items but which may not be eligible for duty remission under the Machinery Program (i.e., they are available from Canadian production) for situations where Canadian producers cannot meet demanding delivery schedules oftentimes existing in the automotive industry.

Tariff Item 97052-1

For importations which have not been granted remission of duty under the provisions of either the Machinery Program or P.C. 1973-1744, duty drawback may be available under tariff item 97052-1, provided the goods are deemed to be of a class or kind not made in Canada.

Order in Council PC 1973-1744

The relevant provisions of Order in Council P.C. 1973-1744 are:

HIS EXCELLENCY THE GOVERNOR GENERAL IN COUNCIL,
on the recommendation of the Minister of Industry, Trade
and Commerce, pursuant to section 7 of the Department of
Industry, Trade and Commerce Act, is pleased hereby

(a) ...

(b) to authorize the Machinery and Equipment Advisory
Board, in addition to the duties and powers authorized
by Order in Council P.C. 1967-2301 of 12th December,
1967, to consider applications for remission of duty ...

(i) ...

(ii) on machinery and equipment for use in the manufac-
ture of parts and accessories and parts thereof
for use as original equipment for motor vehicles
and in the manufacture of tooling for the produc-
tion of such parts and accessories and parts
thereof;

and to advise the Minister of Industry, Trade and
Commerce which goods, machinery and equipment in the
judgment of the Board are eligible for remission in
accordance with the criteria specified in the schedule
hereto.

Criteria

A. ...

B. In advising on applications for machinery and equipment for use in the
automotive industry, the Board will be guided by the following criteria:

(1) Eligibility

The machinery or equipment in respect of which remission of duty
is sought should be for use in the manufacture of original equipment
parts or accessories or parts thereof for motor vehicles, or for use
in the manufacture of tooling for the production of such parts or
accessories for motor vehicles.

(2) Availability

Machinery or equipment should be deemed available in Canada if at least one manufacturer can satisfy the Board that it has the ability and capacity to manufacture machinery or equipment comparable in physical qualities, operational characteristics, and efficiency to that machinery or equipment available abroad for which remission of duty is being sought and, provided that an order is placed with the machinery manufacturer at the earliest practicable time, the machinery manufacturer can reasonably meet the delivery time required. Because of the need to meet tightly scheduled automotive commitments, the timing factor should be regarded by the Board as a critical consideration.

(3) Automotive Program Objectives

The use of the machinery and equipment in respect of which remission of duty is sought would result in the improvement of the productive capability of the industry.

In addition to the above mechanisms for providing duty relief, it should be noted that tariff item 44532-1 applying to "electrical instruments and apparatus of precision of a class or kind not made in Canada", is due to become duty-free in 1987 under the GATT.

Provisional Made-in-Canada Status of Goods

(a) Published Rulings

Revenue Canada, Customs and Excise, Departmental Memorandum D11-1-1 contains no rulings specific to this tariff item. It is possible, however, that some of the machines and instruments on which rulings have been made are relevant to the item.

(b) Commodity Classes

In the absence of any meaningful statistics, it is not possible to prepare a list of statistical classes known to have been applied to goods on which drawback has been granted.

Tariff Proposals

The Motor Vehicle Manufacturers' Association (MVMA):

- (i) claims that the item is an essential complement to the Autopact and much broader in scope than the Machinery Program;
- (ii) advocates retention of the item to assist Canadian manufacturers, pointing out that
 - (a) it is not different in principle from the Machinery Program; and
 - (b) its areas of applicability are well established; and
- (iii) indicates that "availability" sometimes causes problems respecting parts.

The Rubber Association of Canada:

- (i) supports the position of the MVMA, as the item minimizes costs, particularly for original equipment suppliers, while encouraging Canadian production of machinery and equipment without penalty to users;
- (ii) proposes retention, but notes that a shift to "availability" might even be of assistance to the rubber industry; and
- (iii) considers the enhancement of P.C. 1973-1744 a possibility, but feels unable to comment due to lack of experience.

F. Jos. Lamb Company Limited of Windsor, Ont., (which describes itself as "Canada's largest original equipment designer and manufacturer of primarily automated metal working transfer line systems and assembly machines incorporating welding" and as "one of Canada's largest original equipment designers and manufacturers of primarily automated parts handling equipment and industrial parts cleaning equipment") in its brief, supported by the Canadian Tooling Manufacturers Association:

- (i) advocates elimination of the item, as there is no binding and no effect on rate(s) of duty, while other programs now available would provide any necessary relief;
- (ii) indicates its belief that, in the absence of detailed information, other approaches are impractical;
- (iii) seeks to have excluded from any replacement provision the goods produced by the company and listed by commodity codes in its brief; and
- (iv) notes that elimination of the item would end drawback on "made" parts of "not made" goods, a problem to the tooling industry.

Representations have also been received from a number of manufacturers of vehicles, original equipment parts and replacement parts, all of which take basically the same approach, raising one or more of the following points:

- (i) the item should be retained because of the assistance it affords in reducing machinery and tooling costs in the production of goods for which there is now, generally speaking, a North American market, with a large proportion of Canadian production exported;
- (ii) if, in order to eliminate the "class or kind not made in Canada" provision, the item must be deleted, it should be replaced by some kind of "availability" arrangement, through a broadening of PC 1973-1744 beyond the original equipment market or by the extension of the Machinery Program to cover additional items of equipment; and
- (iii) constant changes in manufacturing processes would soon render obsolete any eo nomine listing of "made" goods.

The foregoing comprehends the submissions of:

Volkswagen Canada Ltd., Scarborough, Ont.
Duplate Canada Inc., Toronto, Ont.
Fram Canada Inc., Stratford, Ont.
Wix Inc., Pickering, Ont.
Canadian Timken Limited, St. Thomas, Ont.
Bundy of Canada Limited, Bramalea, Ont.
Rockwell International of Canada Ltd., Toronto, Ont.
Hastings Inc., Scarborough, Ont.
Euclid Canada Limited, Guelph, Ont.
FAG Bearings Ltd., Stratford, Ont.
National Rubber Company Limited, Toronto, Ont.

Canadian Fram Limited of Chatham, Ont., also seeks to retain the item for the reasons given above and to extend coverage of any relief program to equipment used for purposes of research and development.

Without making any specific proposals, Bombardier Inc. indicated an interest in the item.

Staff Appraisal

1. This item is of considerable significance in an industry which has to a large degree become multi-national due to the Autopact.

2. The variety of goods involved suggests that the deletion of the item, or its replacement with an eo nomine item, would cause difficulties. While some goods would still be subject to other relief programs, many more would not.

3. The most acceptable alternative to retaining the existing item would appear to be to broaden the provisions of PC 1973-1744 to cover all the goods and end uses now described in the drawback item.



3 1761 11549333 0